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ENVIRONMENTAL ASSESSMENT BOARD

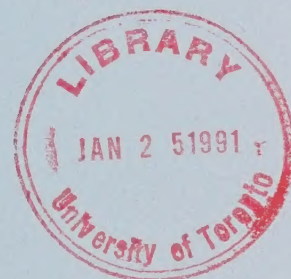
VOLUME: 277

DATE: Monday, January 14, 1991

BEFORE:

A. KOVEN Chairman

E. MARTEL Member




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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the offices of the Ontario
Highway Transport Commission, Britannica
Building, 151 Bloor Street West, 10th Floor,
Toronto, Ontario, on Monday, January 14,
1991, commencing at 10:30 a.m.

VOLUME 277

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member

A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	
MS. C. BLASTORAH)	MINISTRY OF NATURAL
MS. K. MURPHY)	RESOURCES
MR. B. CAMPBELL)	
MS. J. SEABORN)	MINISTRY OF ENVIRONMENT
MS. B. HARVIE)	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRIES
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MS. E. CRONK)	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY)	ASSOCIATION
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DR. T. QUINNEY)	ANGLERS & HUNTERS
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MS. N. KLEER)	and WINDIGO TRIBAL COUNCIL
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MS. M. SWENARCHUK)	FORESTS FOR TOMORROW
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MR. R. BARNES)	ASSOCIATION
MR. R. EDWARDS)	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION

APPEARANCES: (Cont'd)

MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD)	
MR. J.W. ERICKSON, Q.C.)		RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK)	MUNICIPAL COMMITTEE
MR. D. SCOTT)	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
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MR. S.M. MAKUCH)	
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MR. D. COLBORNE)	GRAND COUNCIL TREATY #3
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MR. R. REILLY		ONTARIO METIS & ABORIGINAL ASSOCIATION
MR. H. GRAHAM		CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN		DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC		MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES		ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI		BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY

APPEARANCES: (Cont'd)

MR. R.L. AXFORD

CANADIAN ASSOCIATION OF
SINGLE INDUSTRY TOWNS

MR. M.O. EDWARDS

FORT FRANCES CHAMBER OF
COMMERCE

MR. P.D. McCUTCHEON

GEORGE NIXON

MR. C. BRUNETTA

NORTHWESTERN ONTARIO
TOURISM ASSOCIATION

I N D E X O F P R O C E E D I N G S

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I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
1639	Five-page letter from Ms. Patton Lodge Lindsay to Mr. Pascoe dated January 3, 1991 and a four-page response from Mr. Pascoe to Ms. Lodge Lindsay.	49695
1640A	One-page letter from Kathleen Murphy to the Environmental Assessment Board, attached to a seven-page MNR undertaking re timber operations in Havrot Township.	49696
1640B	MNR forest stand map showing the area allocated in Havrot Township in the 1985-90 timber management plan.	49696
1640C	MNR forest stand map showing the area cut in 1985-1990 in the plan and area cut to September 7th, 1990, the area allocated for cutting in the 1990-95 timber management plan and proposed road corridors and existing road network for the 1990-95 plan.	49696
1641	Letter to the Minister of the Environment from Mr. Gerald Gilbert, dated November 14, 1990, and also Ms. Greer's two-page response to Mr. Gilbert's letter.	49696
1642	A 1:50,000 aerial photograph referring to slide 156.	49703
1643	Document entitled Gordon Cosens Forest portion of Benson's evidence.	49712

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u> (Continued)	<u>Page No.</u>
1644	Two page document consisting of excerpts from the 1972 and 1986 forest resources inventories re Spruce Falls holdings in the Gordon Cosens Forest.	49716
1645	Table 3.1 entitled Area Summary for Forest Management Agreement No. 500600 Total Agreement Area pertaining to the Gordon Cosens Forest.	49720
1646	Two-page excerpt from the five-year operating plan, 1985-1990, for the Gordon Cosens Forest.	49723
1647	Photograph of Souden Lake area dated October 25, 1990 which corresponds to photograph 199 of Mr. Benson's evidence.	49740
1648	Two-page photograph of the area depicted in photograph 199.	49745
1649	Table 4.1 entitled Report of Depletion by Area from the Report of Past Operations contained in the timber management plan for the English River Forest for the years 1990 to 1995.	49755
1650	Document entitled Funding Mechanisms for Silviculture, a Position Paper by the Forest Economics and Policy Working Group, dated September 19, 1990.	49787

1 ---Upon commencing at 10:35 a.m.

2 MADAM CHAIR: Good morning. Please be
3 seated.

4 Good morning, Mr. Cassidy.

5 MR. CASSIDY: Good morning.

6 MADAM CHAIR: Mr. Cassidy, do you mind if
7 we enter some material as exhibits before I forget.

8 The first will be Exhibit 1639 and this
9 is a five-page letter from Ms. Patton Lodge Lindsay to
10 Mr. Pascoe dated January 3rd, 1991 and a four-page
11 response from Mr. Pascoe to Ms. Lodge Lindsay.

12 ---EXHIBIT NO. 1639: Five-page letter from Ms. Patton
13 Lodge Lindsay to Mr. Pascoe dated
14 January 3, 1991 and a four-page
response from Mr. Pascoe to Ms.
Lodge Lindsay.

15 MADAM CHAIR: Exhibit 1640 consists of
16 three parts; A, B and C. 1640A is a one-page letter
17 from Kathleen Murphy to the Environmental Assessment
18 Board attached to a seven-page MNR undertaking with
19 respect to timber operations in Havrot Township.

20 And Exhibit 1640B is a map which is a
21 1985 MNR forest stand map showing the area allocated in
22 Havrot Township in the 1985-90 timber management plan.

23 Exhibit 1640C is another map, also the
24 1985 MNR forest stand map, showing the area cut in
25 1985-1990 in the plan and the approximate area cut to

1 September 7th, 1990, the area allocated for cutting in
2 the 1990-95 timber management plan and the proposed
3 road corridors and existing road network for the
4 1990-95 plan.

5 ---EXHIBIT NO. 1640A: One-page letter from Kathleen
6 Murphy to the Environmental
7 Assessment Board, attached to a
8 seven-page MNR undertaking re
timber operations in
Havrot Township.

9 ---EXHIBIT NO. 1640B: MNR forest stand map showing the
10 area allocated in Havrot
Township in the 1985-90 timber
management plan.

11 ---EXHIBIT NO. 1640C: MNR forest stand map showing the
12 area cut in 1985-1990 in the
13 plan and area cut to September
14 7th, 1990, the area allocated
15 for cutting in the 1990-95
timber management plan and
proposed road corridors and
existing road network for the
1990-95 plan.

16 MADAM CHAIR: Exhibit 1641 is a letter to
17 the Minister of the Environment from a Mr. Gerald
18 Gilbert, dated November 14th, 1990, and also Ms.
19 Greer's two-page response to Mr. Gilbert's letter.

20 ---EXHIBIT NO. 1641: Letter to the Minister of the
21 Environment from Mr. Gerald
22 Gilbert, dated November 14, 1990,
and also Ms. Greer's two-page
response to Mr. Gilbert's letter.

23 MADAM CHAIR: Thank you, Mr. Cassidy.

24 MR. CASSIDY: Thank you, Madam Chair.

25 CRANDALL BENSON, Resumed

1 CONTINUED CROSS-EXAMINATION BY MR. CASSIDY:

2 Q. Now, Mr. Benson, I want to refer you
3 to photograph 156 of your collection. I don't think
4 it's necessary to look at it, but on Tuesday, December
5 11th of last year in Volume 271 at page 48,971 of the
6 transcript you described this photograph as follows:

7 "In this particular case what is showing
8 is the erosion in the ditch behind the
9 road from a relatively flat area, but
10 fairly fine textured soil and this ditch
11 erosion is going down into the stream of
12 the reserve."

13 You went on to say that:

14 "The reserve in turn is going into the
15 lake with half a reserve and I'm not too
16 sure of the logic of the whole thing.
17 Why some have a reserve and some don't,
18 particularly when the stream with
19 the reserve flows into the lake without
20 the reserve."

21 And I want to show you an aerial
22 photograph. I take it that when you were doing your
23 reviews you used aerial satellite images which you have
24 described -- which you then transferred on to cut-over
25 maps which you filed as Exhibit 1624. That's

1 essentially the process; is that correct?

2 A. Plus the field work that I did.

3 Q. Right. That's that ground trooping
4 you were talking about?

5 A. Part of it was ground trooping for
6 the photographs. In this particular case, the
7 observation was made based upon what I saw in the field
8 and the assumption was made the river was flowing into
9 that small lake.

10 Q. You didn't review aerial photographs
11 at a 1:50,000 scale when you were doing that
12 interpretation of the satellite images or when you were
13 doing your reviews of the areas in your photos; did
14 you?

15 A. 1:50,000, no.

16 Q. Okay. I want to show you a 1:50,000
17 photograph which I think I have given you a copy of.
18 It is the only remaining one you have left. I will
19 check and make sure you have the same one that I have.
20 Yes.

21 MADAM CHAIR: Mr. Cassidy, this isn't the
22 same area of the clearcut that we left off on on
23 Thursday?

24 MR. CASSIDY: No.

25 MADAM CHAIR: Okay.

1 MR. CASSIDY: Q. Now, I am informed by
2 Mr. Virgo that the map should be held with the letters
3 0909 -- or the numbers 0909 in the left-hand corner.
4 If you hold it that way you will be looking at the
5 photograph correctly.

6 Mr. Virgo informs me that he went out and
7 looked at the photographs following your evidence in
8 this area and that this is the creek in the middle of
9 the photograph which you have described where the ditch
10 enters into the creek, and if you look at the
11 photograph in the middle you will see a small lake.

12 Are you able to see that from here, Mr.
13 Benson, or should I come over there?

14 A. I'm not too sure which one you are
15 pointing to.

16 MADAM CHAIR: Which one, Mr. Cassidy?

17 MR. CASSIDY: (indicating)

18 Q. Do you see a creek leading away from
19 that lake, Mr. Benson?

20 A. Yes, there is.

21 Q. Yes?

22 A. Mm-hmm.

23 Q. There appears to be a road that
24 intersects it there?

25 A. That's correct.

1 Q. I am advised by Mr. Virgo, who has
2 looked at the area, that that in fact is the creek that
3 you were referring to and it is known as Rice Creek,
4 and I am further advised by Mr. Virgo, who has looked
5 at the area in the photograph, that that creek leads
6 into a larger lake here called Opasatika Lake, and
7 that's that large body of water there.

8 Do you see that?

9 A. That's correct.

10 Q. And that the lake, in fact, does have
11 a reserve around it and that the lake that you were
12 referring to as not having reserve --

13 MADAM CHAIR: Which one is Opasatika?

14 MR. CASSIDY: The large body of water.

15 MADAM CHAIR: Okay.

16 MR. CASSIDY: The lake that you referred
17 to as not having a reserve is the small lake to the
18 north of that lake and that, in fact, the creek does
19 not lead into that lake, but leads rather into
20 Opasatika Lake.

21 Are you in any position to disagree with
22 that?

23 A. No, I'm not. That was my error I
24 made in the field in assuming that the creek went into
25 the smaller lake and that the erosion went to the small

1 lake, too. In effect it goes into the larger lake.

2 Q. So we have a reserve around a creek
3 or a stream leading into a lake that has a reserve
4 around it; don't we?

5 A. Yes, we do.

6 Q. In fact, then, your evidence in that
7 respect was wrong?

8 A. Correct.

9 Q. I am further informed that that lake
10 which does not have a reserve around it was reviewed
11 and the cutting plans around that lake were reviewed by
12 a Ministry biologist who approved the cutting to that
13 shoreline. Are you in a position to disagree with
14 that?

15 A. I would have to take your word for
16 that.

17 Q. All right. And you would not be in a
18 position, because you are not a biologist, you would
19 not be in a position to second guess that biologist's
20 opinion after he ground trooped and reviewed the area;
21 would you?

22 A. Second guess his opinion off whether
23 it should be clearcut around the waterbody?

24 Q. Correct. You are not a biologist
25 such that you could second guess that; could you?

1 A. Well, I think there is more than just
2 biology concerned in a situation like this and one
3 thing that impressed me about this area and some of the
4 areas with the large clearcuts was not just the biology
5 of the area, but also the hydrology of the area, what
6 is the effect of erosion of the area, what's the effect
7 on the water quality of the area, what's the effect on
8 the diversity of the area.

9 I think those all have to be considered,
10 and I'm not sure that the biologist would consider all
11 those particular factors when they cleared -- or he
12 cleared the process for clearcutting around that
13 particular lake.

14 Q. But you have no evidence to suggest
15 that he did not consider those factors; do you?

16 A. Nor do I have any evidence that he
17 did consider those factors.

18 Q. So, therefore, you can't express an
19 opinion either way on that; can you?

20 A. I was expressing my opinion as to why
21 I think it was important in a case like that, as well
22 as some of the other small lakes, the effect that they
23 may have on the environment.

24 Q. Thank you.

25 MS. SWENARCHUK: Are we going to make

1 that an exhibit, Mr. Cassidy?

2 MR. CASSIDY: Yes, that would be Exhibit
3 1641, I believe, a 1:50,000 photograph --

4 MS. SWENARCHUK: It is 1642.

5 MADAM CHAIR: Exhibit 1642.

6 MR. CASSIDY: Thank you.

7 MADAM CHAIR: Mr. Cassidy, which exhibit
8 was -- you were referring to a previous slide.

9 MR. CASSIDY: Yes. This is a 1:50,000
10 photograph referring to exhibit -- or slide 156.

11 MADAM CHAIR: Thank you.

12 ---EXHIBIT NO. 1642: A 1:50,000 aerial photograph
13 referring to slide 156.

14 MR. CASSIDY: Q. Now, if I could take
15 you back to Exhibit 1638, Mr. Benson, which is the
16 other set of aerial photographs I provided on Thursday
17 which you indicated, I believe, in your evidence was
18 the area that you had calculated as being cut over when
19 in fact it wasn't.

20 You indicated earlier this morning that
21 you had not referred to 1:50,000 aerial photographs in
22 the course of your analysis of the area. You may wish
23 to take the time to look at the the satellite imagery
24 of which you did use, which I believe may be in Exhibit
25 1626, but do you see any evidence of modified

1 harvesting in the satellite imagery that you used in
2 your analysis?

3 A. Yes, I did. You can see it also on
4 the photograph, Exhibit 1638. I don't know if you can
5 see it on these particular pictures, but on the image
6 itself you can pick out some areas and the two that I
7 found were -- I can show it better on this scale here.

8 Q. We will come to that, sir, but if we
9 could go back to Exhibit 1626 first, can you indicate
10 for me whether or not it appears that a form of
11 modified harvesting, any form of modified harvesting
12 appears on the area that we were discussing last
13 Thursday?

14 Can you find that on that satellite
15 image?

16 A. By the area we were discussing last
17 Thursday, you mean the area immediately south of that
18 one year clearcut?

19 Q. Correct.

20 A. In that particular block, I think you
21 said it was 1,200 hectares?

22 Q. 1,600 hectares.

23 A. 1,600 hectares. No, I didn't see
24 any evidence there.

25 Q. So by looking at the satellite

1 imagery only, you could not, in fact, determine the
2 extent of any modified harvesting; is that correct?

3 A. You could detect some modified
4 harvesting in certain license areas. I think it would
5 depend upon the type of modified harvesting that you
6 are talking about.

7 Certainly I was able to pick out block
8 cuts in some management units and strip cuts in some
9 other management units, yes.

10 Q. But with respect to this particular
11 cut you could not find the modified harvest and, in
12 fact, you would have to look to Exhibit 1638?

13 A. Well, from my understanding, the area
14 that we are talking about wasn't harvested, so I don't
15 think there would be any modified harvest cut.

16 Q. Well, if we look at 1638, to the
17 south of the area or below the area that was not
18 harvested, would you agree with me that there is an
19 area that indicates modified harvesting?

20 I will show the Board where I am
21 pointing. (indicating)

22 A. Yes, there is and you can see that on
23 the satellite image.

24 Q. All right. Can you find that in the
25 satellite image then?

1 A. This isn't the satellite image, this
2 is a photograph of the satellite image.

3 Q. I see. When you used the photograph
4 of the satellite image to calculate your cut-overs, you
5 did not see that particular modified harvesting; did
6 you?

7 A. The photographs of the satellite
8 image were not used for calculating the cut-overs. The
9 cut-over areas were taken directly from the satellite
10 image.

11 Q. And when you did your analysis of the
12 distribution of the cut, did you observe that modified
13 harvesting that's depicted in Exhibit 1638?

14 A. No, I didn't observe that one. I
15 did, however, observe one, larger one, on the northwest
16 part of the photograph.

17 Q. Would you agree with me, sir, that it
18 was entirely possible in the course of your analysis of
19 the satellite images to miss distributions of cuts such
20 as modified harvesting as depicted in Exhibit 1638?

21 A. It would be possible to miss them,
22 yes, at that scale.

23 Q. And, in fact, you did miss the one on
24 Exhibit 1638; did you not?

25 A. The one at the bottom--

1 Q. Yes.

2 A. --that we are talking about here.

3 Yes, I did. That was included in the overall cut-over
4 area, right.

5 Q. Now, you told us again at Volume 271,
6 which is last Tuesday, I believe of last year, last
7 Tuesday, December 11th, that Spruce Falls have always
8 kept fairly good records of their own work.

9 Mr. Benson, company foresters have
10 examined those records of all operations that have
11 occurred on the portion of the Gordon Cosens Forest
12 that you depicted in photo 121. They looked at
13 1:15,840 maps in addition and have determined a total
14 of approximately 63,000 hectares have been harvested
15 since the company began operations in the area.

16 MS. SWENARCHUK: Are we going to have
17 those records produced, Mr. Cassidy?

18 MR. CASSIDY: You will see that. That's
19 coming up.

20 MS. SWENARCHUK: All right.

21 MR. CASSIDY: Q. They have also
22 determined that this means that some 27,000 hectares of
23 the area you depicted in photo 1212 as being harvested
24 in the Gordon Cosens Forest has never been harvested.

25 I take it you are not in a position to

1 dispute those two figures?

2 A. I'm sorry, the second figure you
3 said, 27,000 in that proportion depicted as the
4 cut-over had never been harvested?

5 Q. (nodding affirmatively)

6 A. The larger areas were not included in
7 the cut-over calculation that we used, but certainly
8 some of the smaller residual parts were included in the
9 cut-over calculation because at that scale it's
10 difficult to exclude them.

11 So I couldn't agree with what you are
12 saying entirely.

13 Q. Well, Mr. Virgo observed what you
14 pointed out on photo 1212 and a portion of the Gordon
15 Cosens Forest for us which you indicated as being
16 harvested in that photograph, and I think we are both
17 agreed that that photograph includes more than the
18 Gordon Cosens Forest, but the portion of the Gordon
19 Cosens forest that you indicated as being harvested
20 added up to approximately 90,000 hectares and company
21 records indicate that, in fact, only 63,000 of that has
22 been the subject of timber management operations.

23 Are you in a position to disagree with
24 those figures? That's where the 27,000 comes from.

25 A. I was in disagreement with the way

1 you are stating the 27,000, as if I completely ignored
2 the 27,000 and included it in the cut-over area.

3 What I'm saying is, I wouldn't have
4 included all that 27,000, although possibly I included
5 some of it.

6 Q. All right. And you are not in a
7 position to disagree with the figure of 63,000 as being
8 the subject of harvest operations over the period of
9 time in the Gordon Cosens Forest?

10 A. Well, it depends what the period of
11 time is that you are talking about.

12 Q. Since time began.

13 A. Well, you see, the way for measuring
14 areas on cut-overs has changed over time. For example,
15 in Kap when I started in '69, cut-overs were mapped by
16 eye-balling them in really either from the ground or
17 flying around the area in an airplane, and we really
18 didn't start mapping cut-overs more accurately until
19 the winter of 69/70 when we started. In fact, Kap was
20 one of the first districts to do it, to start
21 supplementary aerial photograph to get a better idea of
22 the cut-overs.

23 So the point is, some of the older
24 cut-overs, I don't know how accurate those particular
25 figures would be. There would be errors that would be

1 made in those figures and I don't know when Spruce
2 Falls started using aerial photograph for mapping
3 cut-overs.

4 MADAM CHAIR: Mr. Cassidy, can you point
5 the Board to where where the 90,000 hectare figure is
6 referred to in the witness statement?

7 MR. CASSIDY: It is not referred to in
8 the witness statement. It was an observation made by
9 Mr. Virgo, and Mr. Benson indicated in giving oral
10 evidence about photo 121 what the extent of the
11 harvesting was in the Gordon Cosens Forest. Mr. Virgo
12 simply calculated size of that area, Madam Chair.

13 MR. MARTEL: I can't recall, but did he
14 say it was all in the Gordon Cosens -- I mean --

15 MR. CASSIDY: No. As I indicated, Mr.
16 Martel, my client has management responsibilities for
17 the Gordon Cosens Forest.

18 There are other areas dealing with Crown
19 management units and freehold land which we discussed
20 on Thursday. I am dealing with what his evidence was
21 in respect of the Gordon Cosens Forest.

22 MR. MARTEL: But where I am --

23 MS. SWENARCHUK: Mr. Martel, may I assist
24 you with this. It is at page 202 after Volume II of
25 his witness statement. The precise wording is:

1 "Contiguous cut-overs including adjacent
2 licences and private land are up to at
3 least 269,300 hectares."

4 That's in the bottom paragraph of that
5 page.

6 MR. CASSIDY: As I indicated, Mr. Martel,
7 I am dealing with the portion which my client has
8 management responsibility, being the Gordon Cosens
9 Forest, and I am also dealing with portions that are in
10 the area of the undertaking. I am not including
11 portions outside the area of the undertaking; i.e.,
12 freehold land.

13 MR. MARTEL: And your client is
14 responsible for 90,000 hectares I think you are saying?

15 MR. CASSIDY: Of that area depicted in
16 photograph 121.

17 MADAM CHAIR: One moment, Mr. Cassidy.

18 MR. CASSIDY: Sure.

19 MADAM CHAIR: Mr. Cassidy, go ahead.

20 MR. CASSIDY: I might just make one final
21 note, Mr. Martel, that's not 90,000 hectares of
22 cut-over; that is, 90,000 total hectares depicted in
23 photograph 121 is the Gordon Cosens Forest.

24 MR. MARTEL: That's what I'm trying to
25 get closer to, how much was cut. You are saying 60...

1 MR. CASSIDY: 63,000 hectares has been
2 harvested since time began and records began.

3 Q. Now, in light of that, if we could
4 move to what the 63,000 represents, Mr. Benson.

5 I would like to have you look at the
6 document which I produced you which is entitled Gordon
7 Cosens Forest portion of Benson's clearcut evidence.

8 Do you have that in front of you, sir?

9 A. I do.

10 Q. (handed)

11 MADAM CHAIR: Thank you, Mr. Cassidy.

12 Do you want this to be an exhibit, Mr.
13 Cassidy?

14 MR. CASSIDY: Yes, if it could be the
15 next exhibit, Madam Chair. It will simply be called a
16 document entitled Gordon Cosens Forest portion of
17 Benson's evidence.

18 MADAM CHAIR: That will be Exhibit 1643.

19 ---EXHIBIT NO. 1643: Document entitled Gordon Cosens
20 Forest portion of Benson's
evidence.

21 MR. CASSIDY: Q. I would like to see
22 what happened to those 63,000 hectares, Mr. Benson, and
23 I would like to review this document with you.

24 You have had an opportunity to review
25 that; is that correct?

1 A. Not really, no.

2 Q. You are presented with it last week?

3 A. Right.

4 Q. It is the company's records that
5 approximately 12,000 hectares of that area or 19 per
6 cent has been declared as free to grow and is back in
7 the forest resources inventory of new stands.

8 It is also -- and these figures all will
9 add up to the 63,066 hectares harvested.

10 It is also my client's records that
11 16,082 hectares or 25 per cent of that 63,000 figure
12 have been planted and are waiting to attain free to
13 grow height, and then I would like to discuss to you
14 the breakdown of those figures.

15 Exhibit 1643 refers to hectares
16 assessments successful and this is measured in terms of
17 stocking standards, and of that 16,082 figure some 6.9
18 per cent have been assessed as successful in meeting
19 the stocking standards, 1.6 per cent have been below
20 standard and 17 per cent or some 10,000 hectares are
21 waiting because five years has not past passed since
22 planting.

23 Then if we refer to the 632 hectares that
24 have been seeded, we see the figures broken down in the
25 same three categories there, and then if we refer to

1 the figures as receiving natural regeneration assisted
2 treatments, we see that they represent 5.7 per cent and
3 that .0 -- I'm sorry, 0.2 per cent have fallen below
4 the standard, and then if we refer to the 29,190 figure
5 which represents 46 per cent of the harvested area, we
6 see that 25 per cent of that figure has been assessed
7 as successful meeting the stocking standards and only
8 2.2 per cent have fallen below the standard, and you
9 see the remaining figure of a portion awaiting
10 artificial regeneration which is planned for that
11 portion.

12 There is 18 per cent -- approximately
13 18.6 per cent of the area receiving natural
14 regeneration that have not yet been assessed and are
15 waiting simply because the five year period has not
16 increase -- or not passed.

17 I take it, sir, you are not in a position
18 to disagree with those figures in light of your
19 evidence that Spruce Falls has kept good records of
20 their own work?

21 A. No, the only -- well, it may arise
22 later, but the only question I have might have is on
23 how is the free to grow determined.

24 Q. I think we have heard lots of
25 evidence on free to grow standards, sir.

1 A. I'm not talking about the standards,
2 I am wondering how it was determined for the stands in
3 this particular area.

4 Q. All right. Now, I would like to move
5 on to that portion of your evidence, it is stated on
6 page 204 of Volume II, and you indicated in Item C
7 there on page 204, the last sentence in Item C says:

8 "Older cut-overs had no regeneration or
9 sporadic success of artificial
10 regeneration."

11 I would like to show you an excerpt from
12 the 1972 and 19 -- from the 1972 inventory and the 1986
13 forest resources inventory and I believe you already
14 have a copy of that as well. (indicating)

15 A. Yes.

16 MR. CASSIDY: Madam Chair, perhaps we can
17 make this the next exhibit, which is a two-page
18 document consisting of excerpts from the 1972 forest
19 resources inventory and the 1986 forest resources
20 inventories.

21 Q. I would like to bear in mind your
22 statement on 204 referring to --

23 MADAM CHAIR: Excuse me, Mr. Cassidy.
24 This will be Exhibit 1644.

25 MR. CASSIDY: Thank you, Madam Chair.

1 MADAM CHAIR: It's for the area...

2 MR. CASSIDY: Of the Gordon Cosens
3 Forest.

4 MADAM CHAIR: For all Spruce Falls
5 holdings in the Gordon Cosens Forest?

6 MR. CASSIDY: Yes.

7 ---EXHIBIT NO. 1644: Two-page document consisting of
8 excerpts from the 1972 and 1986
9 forest resources inventories re
Spruce Falls holdings in the
Gordon Cosens Forest.

10 MR. CASSIDY: Q. I would like to refer
11 you to the bottom portion of the first page of Exhibit
12 1644. That page in fact has page five written at the
13 top. Do you see that Mr. Benson?

14 A. I do.

15 Q. The bottom portion of that page,
16 which appears to have three blocks of documents on it,
17 and the bottom portion is called Total Agreement Area
18 and it deals with NSR or not satisfactorily
19 regenerated, which I think is known as this hearing,
20 and you will see the figure at the bottom dealing with
21 the totals for NSR as being 332,444 hectares.

22 Do you see that.

23 A. I do.

24 Q. Yes?

25 A. Yes.

1 Q. If you flip over to the 1986
2 inventory where you have a discussion of the summary of
3 productive forest, in the second column from the left
4 at the bottom you will see a total for NSR as of the
5 1986 inventory of 176,437 hectares.

6 Now Mr. Benson, are you aware that when
7 an area is declared free to grow it goes into the 1 to
8 20 age class?

9 A. I am.

10 Q. Now, in light of your statements,
11 sir, that older cut-overs in the Gordon Cosens Forest
12 had no regeneration or sporadic success of artificial
13 regeneration, I suggest to you that the figures
14 represented by the difference between the 1972
15 inventory and the 1986 inventory, Exhibit 1644,
16 indicate that the older cut-overs represented by the
17 NSR areas have indeed been regenerating and a reduction
18 in the NSR by over 64 per cent, which is the difference
19 between those two figures, is far more than sporadic
20 success of either natural and/or artificial
21 regeneration.

22 Do you agree with that suggestion?

23 A. No, I don't.

24 Q. Is it, therefore, your evidence that
25 reduction in the NSR by 46 per cent is an indication of

1 sporadic success?

2 A. No. The figures to me are confusing
3 and there is really three reasons and it relates to a
4 point that Mr. Martel brought up last week.

5 If I could, the data we obtained from the
6 Kapuskasing District in 1989 for the current management
7 plan -- can I submit this as evidence? Is that the
8 procedure?

9 MADAM CHAIR: Mr. Cassidy?

10 MR. CASSIDY: We can refer to whatever he
11 wishes and if it has to be filed as an exhibit it can
12 be.

13 MADAM CHAIR: Go ahead, Mr. Benson.

14 THE WITNESS: The table I have indicates
15 for that same number, the NSR number that you were
16 pointing out, indicates an NSR of 77,976.

17 MR. CASSIDY: Q. What year is this, sir?

18 A. This was from the current management
19 plan, as far as we understood, that was obtained in
20 1989 from the Ministry of Natural Resources Kapuskasing
21 office for the management plan.

22 Q. Yes.

23 A. So my point is it causes confusion.
24 I'm not too sure, where does this 77,000 enter in,
25 before or after the 332,000?

1 It either means it was before -- well
2 then, then the NSR increased. It was after, then the
3 NSR decreased but then by 1986 it went back up again.
4 I'm not sure just where it enters into the picture, so
5 it causes confusion that way.

6 Q. I don't know where your figures enter
7 into the picture, sir, but do you see the source
8 references with respect to Exhibit 1644?

9 MS. SWENARCHUK: Mr. Cassidy, again, Mr.
10 Benson said he had three reasons why the figures were
11 confusing and perhaps you can allow him to outline the
12 reasons before we begin cross-examining again.

13 MADAM CHAIR: Mr. Benson, I think we
14 should make the data to which you just referred an
15 exhibit. That will be Exhibit 1645.

16 Could you please tell us what it is?

17 THE WITNESS: It's Table 3.1 entitled
18 Area Summary for Forest Management Agreement No. 500600
19 Total Agreement Area.

20 MADAM CHAIR: So this is again for Spruce
21 Falls and the Gordon Cosens Forest?

22 THE WITNESS: That's right.

23 MR. FREIDIN: It is from which timber
24 management plan? Are you able to identify that?

25 THE WITNESS: From the Gordon Cosens

1 management plan.

2 MR. FREIDIN: No, which year? Which term
3 of the timber management plan?

4 THE WITNESS: We asked for the current
5 one when we were up there which was in 1989. So I
6 would assume it is for that particular time period.

7 MADAM CHAIR: 1985 to 1990?

8 THE WITNESS: Correct.

9 ---EXHIBIT NO. 1645: Table 3.1 entitled Area Summary
10 for Forest Management Agreement
11 No. 500600 Total Agreement Area
pertaining to the Gordon Cosens
Forest.

12 MR. CASSIDY: Q. You had two other
13 points?

14 A. Yes. The second point was, if you
15 compare the two inventories, '72 to '86, there is a
16 white birch working group that all of a sudden appears
17 in 1986. It's not in the area summary that was in the
18 exhibit number that I have, but there is an area in the
19 white birch working group of 98,000 hectares and it
20 wasn't there before.

21 Again, it's a problem of: Well, what do
22 we really have out there on that land base.

23 The third point that causes me some
24 confusion, accepting the figures as you say, is that in
25 the extracts from the five year operating plan, 1985 to

1 1990, for the Spruce Falls Power and Paper Company
2 Limited for the Gordon Cosens Forest, on page 48 of
3 that document it says how the NSR areas were surveyed
4 and -- rather, how the ones that weren't surveyed were
5 dealt with and it says on that page:

6 "The areas have not satisfactorily
7 regenerated (NSR lands) which have been
8 surveyed prior to the initiation of the
9 agreement and which have found to be
10 above minimum stocking to the appropriate
11 work group species and are classed as
12 free to grow (FTG) shall be entered into
13 the inventory of the standard procedure."

14 It goes on to say:

15 "For the remaining lands which have not
16 been surveyed but which are classed as
17 barren and scattered, the same proportion
18 by working group shall enter the
19 inventory as free to grow as that
20 similarly classed in the initial NSR
21 survey."

22 So it indicates to me that not all the
23 NSR land was measured, but that some land was just put
24 in to different categories on the basis of lands that
25 were measured.

1 Again, there will be some error, I don't
2 know how much, but there would be some error in doing
3 it that particular way.

4 MADAM CHAIR: What was the source you
5 were reading from, Mr. Benson?

6 THE WITNESS: This was the excerpt from
7 the five-year operating plan, 1985-1990, for the Gordon
8 Cosens Forest.

9 MADAM CHAIR: Which page was that?

10 THE WITNESS: Page 48.

11 MADAM CHAIR: Is that already an exhibit,
12 Mr. Cassidy?

13 MR. CASSIDY: I never entered it as an
14 exhibit, so unless Ms. Swenarchuk did I don't believe
15 it has been.

16 MADAM CHAIR: Let's make the excerpt you
17 have read us the next exhibit.

18 MS. SWENARCHUK: We can make copies at
19 the break.

20 MADAM CHAIR: Thank you. Do you want the
21 one page made the exhibit?

22 MS. SWENARCHUK: Perhaps one or two pages
23 will be appropriate.

24 MADAM CHAIR: All right. Those are
25 pages....? Sorry, Mr. Benson.

1 THE WITNESS: I would suggest the cover
2 page and page 48.

3 MS. SWENARCHUK: Yes.

4 MADAM CHAIR: That will be Exhibit 1646.

5 ---EXHIBIT NO. 1646: Two-page excerpt from the
6 five-year operating plan,
7 1985-1990, for the Gordon Cosens
8 Forest.

8 MR. CASSIDY: Q. Mr. Benson --

9 A. There is a fourth point, too, and it
10 is in my Table 3C. That really is -- what I'm looking
11 at is the area that's been regenerated.

12 Q. Which page is that, Mr. Benson?

13 A. On page 210 of my witness statement,
14 part 2.

15 Q. Yes.

16 A. It's what I did with a number of the
17 different management plans, I compared the area cut to
18 the amount of area regenerated or recorded as being
19 regenerated and, again, I find a difference between the
20 area harvested and the area regenerated.

21 Q. Thank you. Now, if I could deal with
22 your question of white birch which you referred to as
23 appearing in the 1990 -- sorry, the 1986 inventory
24 which is in the second page of Exhibit 1644. You
25 indicated that that was not present in the 1972

1 inventory?

2 A. Correct.

3 Q. Would you agree with me that even
4 though it has been added in the 1986 inventory these
5 figures represent a reduction in the NSR such that, in
6 fact, does not increase the NSR?

7 A. If I just use those two particular
8 figures, you could say that, but what I am saying is I
9 have that figure that came in between, the 7,000 plus
10 the statement in the operating plan that I'm not too
11 sure how much credence you can give to those particular
12 figures. It relates to what Mr. Martel was talking
13 about last week; what do really have out there, do we
14 really know what we have out there.

15 MADAM CHAIR: Excuse me, Mr. Benson, can
16 the 77,000 hectares you have referred to be described
17 as part of the white birch working group?

18 THE WITNESS: The 70,000 hectares -- the
19 77,000 hectares that I was describing are in a table
20 similar to -- somewhat similar to the tables presented
21 for 1972 and '86 except it's the total NSR.

22 So the 77,000 is really the same total as
23 the three three two and the same total as the 176,000.

24 MADAM CHAIR: I see. So it is in all the
25 working groups?

1 THE WITNESS: The total of all the
2 working groups, right. So that's why I am confused as
3 to what is the real figure out there.

4 MR. CASSIDY: Q. With respect to the
5 white birch, sir, are you aware that the white birch
6 was included in the class 3 working group for poplar in
7 the 1985 to 1990 work operating plan?

8 A. Yes, it does say that in the note on
9 Exhibit 1645 which is the one I have here.

10 Q. So that, therefore, it is simply a
11 matter of breaking it down further in the 1986
12 inventory which is on the second page of 1644 and that,
13 therefore, there is no error with respect to white
14 birch, it is simply delineated more clearly.

15 Would you agree?

16 A. The finer subdivision, yes.

17 Q. Yes. So in fact your second concern
18 is irrelevant?

19 A. No, because if you are looking at a
20 management unit and trying to track it over time you
21 should know how much area you have in a working group.
22 Are you increasing or decreasing that area, and if you
23 keep changing the base from which you are working, then
24 it's difficult to follow that.

25 Q. When you deal with overall working

1 groups of NSR, however, it was included in the 1972
2 inventory and was included in the 1986 inventory and
3 overall total; correct?

4 A. I'm sorry, your question relates to
5 the white birch working group?

6 Q. Yes?

7 A. Yes, it is included in somewhere in
8 the overall total, but again there must -- that's
9 assuming that -- I would think it would all correct for
10 the production forest that's not NSR, the problem would
11 be with the land that was NSR.

12 MR. MARTEL: Why would that show up as
13 poplar three in '72 and white birch in '86?

14 I mean, I have heard of reptiles changing
15 their skin, but not trees.

16 For clarification purposes, I am just
17 trying to get a handle on how people are supposed to
18 follow it through if the designation changes and what
19 prompts that change of the type that's there.

20 THE WITNESS: I guess we are faced with a
21 problem again. I can't really say for sure why it was
22 that way and I could really only speculate without
23 looking further at the material.

24 My speculation would be that at that --
25 in the early times the white birch was not as important

1 a species, so it really wasn't necessary from the
2 forestry point of view to classify it separately.
3 There have been different classification systems used
4 for the forests in Ontario and that might have been
5 peculiarity for this particular management unit.

6 MR. CASSIDY: Q. All right. If we could
7 move on. We may come back to that after the break, but
8 if we could move on now to deal with some other
9 evidence that you gave in Volume 271 in respect of the
10 comparison between your review of various management
11 units and the review conducted by the FMA audit teams.

12 You stated that the method -- and I am
13 referring to Volume 271, page 48,906. It is just
14 brief, so I will read it.

15 "The difference between it..." which I
16 believe was your review,

17 "...and the FMA particular methods, well
18 first I think the method that we used was
19 somewhat better in a way as I was trying
20 to review the forest over time, both in
21 what it is now and what it is going to be
22 in the future rather than just on a
23 five-year assessment."

24 If I can refer you to Exhibit 68, Mr.
25 Benson, which I believe you should have.

1 MS. SWENARCHUK: (handed).

2 MR. CASSIDY: It's the five-year review,
3 1980-1985.

4 Q. If I can take you to page 29.

5 You see approximately in the middle of the page there,
6 Mr. Benson, the committee operated out of Iroquois
7 Falls reviewing records and interviewing company staff
8 in both office and filed locations.

9 Do you see that?

10 A. Yes, do I.

11 Q. If I could then refer you to page 101
12 in respect of the Spruce Falls Gordon Cosens Forest,
13 you will see under Records:

14 "The review committee checked the
15 company's record keeping in respect of
16 availability, comprehensive, reliability
17 and quality. All of the records were
18 available and contained a satisfactory
19 amount of information and planned
20 activity and work actually accomplished."

21 Do you agree, sir, as you said last week,
22 you never interviewed company staff nor checked their
23 records in either one of these units, the Abitibi or
24 Spruce Falls?

25 A. I have assumed that the MNR is

1 responsible for managing the Crown land and we went to
2 them to see how they were doing that.

3 Q. So that was the assumption you made,
4 but can you confirm for me that you never looked at
5 company records in those areas and you never
6 interviewed companies officials as the five-year audit
7 did. Can you confirm that?

8 A. We didn't look at company records and
9 we didn't ask for company records except in one
10 situation, but I have talked to some company people for
11 some parts of different plans.

12 Q. Okay. Do you agree that significant
13 management decisions are often made by foresters
14 working for companies that hold forest management
15 agreements?

16 A. I'm sorry?

17 Q. Do you agree that significant
18 management decisions are often made by foresters
19 working for what I will call FMA companies?

20 A. That they make decisions?

21 Q. Significant decisions.

22 A. And that they are significant. I
23 would think that they do that, yes.

24 Q. Yet you chose not to speak to those
25 people; is that correct?

1 A. Well, I was examining management
2 plans, I wasn't examining the foresters. I was
3 examining the areas being managed, I wasn't examining
4 the people making the decisions.

5 I was examining the way the plans were
6 presented by the OMNR, the way the public would see
7 them, and from what I could observe in the field.

8 Q. So the answer to my question is no?

9 A. I think it is. I don't quite see the
10 tie-in.

11 Q. That's fine, but the answer to my
12 question is no, you chose not to speak to those people?

13 A. As I said, there were some that I did
14 speak to, but for the most part we were relying on the
15 information available from the Ministry of Natural
16 Resources.

17 Q. You didn't speak to Mr. Virgo or any
18 of his staff with respect to the Gordon Cosens Forest;
19 did you?

20 A. No, I didn't.

21 Q. You didn't speak to Mr. Squires or
22 anybody from his staff at Abitibi-Price with respect to
23 the Abitibi-Price Spruce River Forest; did you?

24 A. Not in connection with this work, no.

25 Q. I want to turn to the English River

1 Forest briefly and I want to ask you about Exhibit 1634
2 which I have. This was the new photograph that I
3 believe Ms. Swenarchuk entered, and if you need time to
4 answer this question, please indicate and we will look
5 at it after lunch.

6 Can you review that photograph, sir. Do
7 you have Exhibit 1634 in front of you?

8 You may not have it, Madam Chair, I
9 believe this is the only copy Ms. Swenarchuk provided.

10 MADAM CHAIR: Does the Board need it?

11 MR. CASSIDY: At the moment no.

12 MS. SEABORN: It is marked as an exhibit?

13 MR. CASSIDY: Yes, Exhibit 1634. It is
14 of the English River.

15 Q. It is a satellite, is it not -- photo
16 of a satellite image?

17 A. Photo of a satellite image, right.

18 Q. I would like you to tell me if you
19 are aware or if you know of there is a natural forest
20 fire depicted on that photograph.

21 If you need time, sir, to look at this
22 over lunch, please do.

23 A. I did ask some questions about this
24 particular one. I presume you are referring to the
25 area that was the one-year clearcut area to the north

1 of Souden, I believe it's Souden Lake, the area that
2 looks somewhat grayish in the photograph?

3 Q. Is it your evidence that's a fire, a
4 natural forest fire?

5 A. No, I don't know what it was, because
6 I asked two people and got one answer that it was
7 natural and one that it was a prescribed burn. So I
8 really don't know which it was.

9 I did ask further about an area to the --
10 it would be the northwest of Souden Lake, about whether
11 that area was cut or whether it was burned and that was
12 a natural fire up in that particular area, but for that
13 particular area I know it was burned. Whether it was
14 prescribed or natural, I don't know.

15 Q. So I guess my looking at the
16 satellite image you will not be able to tell whether or
17 not that is a cut-over, a natural fire or a prescribed
18 fire? Is that your evidence; you had to ask further
19 questions?

20 A. No, I can tell that it is a cut-over
21 and whether I could tell it was burnt or not, I don't
22 really know because the evidence came from the clearcut
23 exercise on top of this and we had seen the area and
24 knew that it was burned, so we are trying to figure out
25 was it a prescribed burn or was it burnt before it was

1 harvest. I don't know.

2 There was a similar area in the unit
3 south of this one, the Sioux Lookout unit, where the
4 area was burned but in examining that area the burn was
5 after the cut.

6 MADAM CHAIR: Excuse me. Is your
7 evidence that this area was burned after it was
8 harvested, whether prescribed or natural fire?

9 THE DEPONENT: This one, I don't know.

10 MR. CASSIDY: Q. So you are not able to
11 say -- are you able to say whether or not that area was
12 harvested that you are referring to as being burned?

13 A. This one on the area where it was the
14 single year clearcut exercise by Souden Lake?

15 Q. (nodding affirmatively)

16 A. That was harvested because that was
17 part of the clearcut exercise.

18 Q. Is there any other area in that
19 photograph depicted that was harvested to your view?

20 A. In this photograph that was
21 harvested?

22 Q. Yes.

23 A. Well, I did use this photograph also
24 to illustrate the other harvesting that was occurring
25 to the east of Souden Lake and, again, that matched the

1 10-year contiguous cut-over mapping exercise. I
2 identified other areas to the -- further east of Souden
3 Lake.

4 Q. Are there any other areas in there
5 that have been the subject of a natural forest fire in
6 your understanding by interpreting that image other
7 than the area identified in the clearcut exercise?

8 A. I wasn't trying to interpret it for
9 forest fires. I was trying to look for areas that were
10 being harvested or cut.

11 Q. But if there was an area that looked
12 like it was disturbed on the photograph, would you try
13 to determine whether or not that was disturbed by
14 harvesting or by natural fire?

15 A. Right, and the way I would try to do
16 it is, if you see a pattern or a road system within it,
17 I would assume then that there was harvesting.

18 Of course, there is an overlap because
19 some areas might be burned and there might be a salvage
20 type of cut in a burn area. So that possibility
21 exists.

22 If there were no roads evident in the
23 particular area, then possibly it could be just a burn
24 area, but I wasn't trying to pick those out definitely.
25 I was just trying to pick out what areas were

1 harvested.

2 Q. Are you aware of any major forest
3 fires that the occurred on the English River Forest in
4 the last 20 years?

5 A. Yes, there have been some large
6 fires. The one I asked about was to the northwest of
7 Souden Lake. I can't recall the year it was in and I
8 don't know the exact location of these fires, no.

9 Q. After having asked that question,
10 what was your conclusion about that area north of
11 Souden Lake?

12 A. The single clearcut area.

13 Q. Yes. Is that the area you thought
14 might be a fire?

15 A. No, as I said, I was confused as to
16 whether it was a prescribed burn or it was burnt and
17 then cut as part of a salvage cut.

18 Q. Did you ask about any other areas
19 other than that that might have been a natural fire or
20 prescribed burn on that photo?

21 A. I asked about the areas to the
22 northwest of Souden Lake.

23 Q. And what was your concern there what
24 it might be?

25 A. Well, there is a large area there and

1 some of it -- there is a road system in it, but it
2 didn't quite look like a harvesting road system to me
3 or possibly they picked up some material here and there
4 and it looked like there wasn't enough disturbance for
5 a harvest. So I did call the Igance office and asked
6 about that particular area and they told me it was a
7 large burn up in that area.

8 I think you can see part of it on this,
9 but not all of that particular area.

10 Q. Okay. What about the area east of
11 Souden Lake, did you investigate what that area was?

12 A. Well, the area immediately to the
13 east of Souden Lake is part of the 10-year contiguous
14 cut-over exercise.

15 Q. Yes. And further east?

16 A. And further east there is some --
17 what we classed as harvesting operations, and there is
18 some --

19 Q. Sorry.

20 A. There is some area immediately to the
21 east, part of the 10-year contiguous cut-over exercise,
22 and some other blocks that extended east from that that
23 we classed as cut-over area.

24 Q. You classed that as cut-over area?

25 A. That's correct.

1 Q. My information, sir, is that that was
2 a 20,000 hectare fire, natural forest fire, fire 17.

3 A. Well, I would have to see the
4 particular map and location of that to see if we are
5 talking about the same area.

6 Part of it -- I think we are experiencing
7 the problem I had when we were trying to examine the
8 management plans, is to have adequate maps of what is
9 going on where in the field and trying to relate to
10 another about the same point spot.

11 Q. So would you agree with me then that
12 it is inadequate to use satellite photo imagery to
13 determine whether or not an area was cut-over? It may
14 in fact be a fire; right?

15 A. I can't say that based on what you
16 said because, like I said, I don't know whether we are
17 talking about the same area.

18 From the areas that I looked at, I think
19 for the most part it's fairly good for separating them
20 out and I will admit, though, that you possibly could
21 make a mistake in some cases. I think, though --

22 Q. As you did with Rice Creek? I'm
23 sorry, as you did with Exhibit 1639?

24 MS. SWENARCHUK: Mr. Cassidy, Mr. Benson
25 had not completed his response.

1 THE WITNESS: People keep getting me
2 mixed up where I am at.

3 In any case, there possibly could be
4 confusion resulting from that. But, again, I don't
5 think it makes too much difference from the point that
6 I was trying to make, the effect that if you are going
7 to plan for the forest and diversity, whether it was a
8 cut or a fire. If you come along and put another
9 clearcut around that fire, you are in effect creating a
10 larger clearcut.

11 You have to plan -- if a fire occurs that
12 changes your plans and you have to plan around that.
13 If you salvage a large fire area, well, that can't help
14 but be a large clearcut and that's understandable and I
15 wouldn't agree with that at all, but it is a pattern of
16 the cut for the whole management unit that I was
17 arguing about.

18 Q. As opposed to size?

19 A. The size figure indicates -- I think
20 it is indicated by the data that you presented here,
21 too, that if you have some rather large areas that are
22 of the same age class, you are having a possible
23 negative effect on the environment for the reasons that
24 I have gone through before and possibly on the wildlife
25 of the area.

1 Q. Now --

2 A. But for the satellite photographs, I
3 really found them quite helpful -- or satellite images.

4 Q. Are you finished?

5 A. Yes. You you had another question,
6 though, that you...

7 Q. I would like to move on to my next
8 questions. If we can move on to photograph 199 which
9 is the Souden Lake photograph. It might be helpful to
10 have this, Mr. Benson, just briefly for the Board
11 unless...

12 A. Do you the number for that one?

13 Q. 199, sir.

14 MR. CASSIDY: Okay.

15 MADAM CHAIR: Mr. Cassidy, these don't
16 have to be an exhibit; do they?

17 MR. CASSIDY: Yes, we are going to be
18 discussing them in just a minute, Madam Chair.

19 MADAM CHAIR: It is the same photograph
20 with three copies?

21 MR. CASSIDY: That's what I wanted to
22 have determined with Mr. Benson here.

23 Q. Mr. Benson, Mr. Ferguson, who is
24 sitting behind you who gave evidence that he has been
25 on the English River Forest since 1974, went out on

1 October 25th of this year and found your site that you
2 have depicted in photograph 199 and took a photograph
3 of it which I have just presented to you, and which I
4 would ask be made the next exhibit, but before doing
5 so, can you confirm that that's the same site?

6 A. Yes, it looks like it is the same
7 site.

8 Q. Do you need the light on to do that?

9 A. No, that's fine.

10 Q. I think we can turn this off now.

11 MADAM CHAIR: Thank you, Mr. Cassidy. I
12 can't see anything when the lights are off.

13 MR. CASSIDY: If that can be made Exhibit
14 1647, photograph of Souden Lake area dated October 25,
15 1990.

16 MADAM CHAIR: This corresponds to the
17 same site...

18 MR. CASSIDY: As photograph 199.

19 MADAM CHAIR: All right.

20 MADAM CHAIR: This photographs was taken
21 October 25th, 1990.

22 MR. CASSIDY: That's correct.

23 ---EXHIBIT NO. 1647: Photograph of Souden Lake area
24 dated October 25, 1990 which
25 corresponds to photograph 199 of
 Mr. Benson's evidence.

1 MR. CASSIDY: Q. Now, we were talking
2 earlier about budworm harvesting operations, Mr.
3 Benson, and Mr. Ferguson informs me that that area was
4 harvested, the area depicted in your photograph 199 and
5 his photograph No. 1647 was harvest in 1987/88, to
6 salvage a stand of budworm infested balsam fir.

7 Did you confirm that when you were doing
8 your management review?

9 A. No, I didn't, not for this particular
10 one.

11 Q. And he also informs me that the
12 shoreline harvesting was approved by a Ministry
13 biologist. Are you aware of that?

14 A. No, I wasn't aware of that.

15 Q. I take it you didn't speak to any
16 Ministry biologist when you did your management review;
17 is that correct.

18 A. No. We were trying to examine the
19 management plan to see what the management plan said
20 and to see how it was applied in the field as we
21 perceived it.

22 I was trying to interpret the management
23 from the point of view of Forests for Tomorrow and
24 their particular concerns.

25 Q. Which are concerns for all -- the

1 management of all resources; correct?

2 A. That's correct.

3 Q. And yet you chose not to speak to the
4 people who are managing non-timber resources; is that
5 correct?

6 A. I wouldn't say it was a matter of not
7 choosing to speak to them. It's a matter of how much
8 time we could spend on the project and it just was not
9 in the design of the project to gather information
10 about particular areas in that amount of detail. I was
11 looking at the overall management of the management
12 units.

13 Q. But you only focused on timber
14 management; correct?

15 A. I only focused on timber management?

16 Q. You didn't speak to the biologists?

17 A. No, and I really didn't speak to the
18 foresters in many instances either. What we were doing
19 was collecting information and trying to interpret that
20 information.

21 Q. Okay.

22 A. But I wouldn't say it was just an
23 evaluation of timber management, no.

24 Q. I suppose your records do not
25 indicate that, in fact, this area was seeded with jack

1 pine following the prescribed burn?

2 A. Not in the records I have with me,
3 no.

4 Q. And your records do not indicate in
5 that, in fact, it was also seeded to spruce -- or
6 planted to spruce, I'm sorry?

7 A. Not with the records I have with me,
8 no.

9 Q. And it was also, in addition to being
10 seeded with jack pine, it was planted to jack pine.
11 Your records don't indicate that; do they?

12 A. Not the records I have with me, no.

13 Q. I would like to provide you with
14 another photograph. I have already given you a copy.

15 MADAM CHAIR: Excuse me, Mr. Cassidy. Is
16 the Board suppose to any see any difference between
17 these two photographs, the one that you gave us and...

18 MR. CASSIDY: Coming right up.

19 MADAM CHAIR: This is an enlargement of
20 this one? (indicating)

21 MR. CASSIDY: A portion.

22 MR. CASSIDY: Q. On the same day Mr.
23 Ferguson took a photograph of the regeneration effort
24 that is underway in this area - and if I could provide
25 you with the next exhibit which is a two-page exhibit

1 indicating a photograph that Mr. Ferguson took on
2 October 25th, 1990 of the spruce and jack pine
3 regeneration I just referred to - would you agree that
4 you did not discuss in your evidence the regeneration
5 that is occurring on that area?

6 A. On this particular area?

7 MS. SWENARCHUK: Well, with respect, Mr.
8 Cassidy, perhaps we could have a little more specific
9 identification where these photographs come from and
10 how they relate to the specific area that Mr. Benson
11 illustrated in his photograph. At this point we have
12 no identification as to --

13 MR. CASSIDY: No problem. 20 feet from
14 that tree in Exhibit 1647 and in photograph 199.

15 MADAM CHAIR: 20 feet which way, Mr.
16 Cassidy?

17 MR. CASSIDY: Coming this way.

18 MS. SWENARCHUK: Coming which way?

19 MADAM CHAIR: As we walk towards the
20 tree?

21 MR. CASSIDY: Yes.

22 MR. FREIDIN: I want to know if Mr.
23 Ferguson is still under the hard hat?

24 MR. CASSIDY: Q. You agree that you did
25 not discuss the regeneration that is occurring in that

1 area in your evidence?

2 A. For this particular area, no. What
3 we looked at was the regeneration effort over the whole
4 management unit.

5 Q. And you are not aware then that the
6 survival figures that were taken in 1990 for this area
7 show survival rates from 80 to 90 per cent?

8 A. No, but I do know some areas -- I
9 have seen different areas up there at different times
10 and I do know in someplaces they do get good
11 regeneration, yes.

12 Q. You are aware -- I'm sorry. Mr.
13 Benson, would you agree that photograph 199 has to be
14 taken in light of photograph 16 -- actually, I don't
15 think we have put a number on this; have we, Madam
16 Chair?

17 MADAM CHAIR: This will be Exhibit 1648.

18 MR. CASSIDY: Two-page photograph of the
19 area depicted in photograph 199.

20 ---EXHIBIT NO. 1648: Two-page photograph of the area
21 depicted in photograph 199.

22 MR. CASSIDY: Q. Would you agree, Mr.
23 Benson, that photograph 199, your photograph has to be
24 taken in the context of the photograph depicted in 1648
25 in order to get an understanding of the state of that

1 area at the present time?

2 A. I'm sorry, the photograph should be
3 taken with exhibit -- photos of 1648 to get a better
4 understanding of it?

5 Q. To get a better understanding of the
6 state of that area at the present time?

7 A. I think you really need more than
8 that to get a better understanding of that area, and I
9 think the problem is quite apparent from what -- you
10 showed what was my interpretation and my assistant's
11 interpretation of that area compared to what you were
12 able to tell me and this is really part of the problem
13 of the management planning procedure i strying to
14 relate what's going on out there in the field to the
15 people and myself to try to gather the information, to
16 try to assess it.

17 We run into problems that way and I think
18 you need more than this in effect because you have
19 another problem there, like the fact that it is cut to
20 the lake, why was it cut to the lake, why was it such a
21 large clearcut in that particular case.

22 Q. You never spoke to the biologist to
23 answer those questions; did you?

24 A. No, in that district. To answer
25 the -- I don't think we could speak to all those

1 questions, but I didn't speak to the biologist there.

2 MR. MARTEL: Can I ask a question then.

3 Should a plan at some stage, when this event occurs,
4 the necessity to do a cut, should that or is that going
5 to be in the new supplementary information, I think is
6 the term that Mr. Freidin used, so that people can get
7 an assessment of what in fact is going on in totality;
8 in other words should the plan be such that, again, you
9 are not lost as to what we started with, what
10 transpired and what the ultimate conclusions of our
11 efforts were in order to get the proper perspective of
12 what transpired?

13 Is it lacking in information presently
14 and doesn't allow, for example, yourself as a
15 professional forester to go in and get a handle,
16 imagine what the public -- the difficulty the public
17 has in trying to get an assessment of that situation.

18 I am just wondering where is it in the
19 new supplementary information that that sort of
20 information with would show up so someone can look at
21 it.

22 THE WITNESS: I think in addition to that
23 what you need is sort of a people's version of the
24 management plan that gives an overview of the
25 management plan and what has happened and where they

1 are going and particular management features.

2 I think you can go even go beyond that.

3 In Alberta, for example, they have particular trails or
4 particular road tours laid out for people with
5 brochures so that people can follow travel around
6 through the management unit and see what's happening in
7 the management unit and gain an understanding of what's
8 being done.

9 MR. CASSIDY: Q. That's what someone
10 might call an executive summary?

11 A. I would say a non-technical executive
12 summary. Forests For Tomorrow has an idea like that in
13 their terms and conditions, although don't ask me to
14 find it right now, but it is there.

15 MR. MARTEL: Can I have some
16 clarification because in the executive summary - I am
17 going back a long time now - but that shows up -- does
18 that show up as the incident occurs?

19 In other words, until you start the next
20 five year plan would that show up as transpiring that
21 way in the executive summary, as I understand it - I am
22 just going by, forgive me, memory right now - but at
23 the start of the next plan?

24 That's when we review what transpired,
25 and what it show up soon enough to give the sort

1 explanation that would make a better understanding for
2 everyone earlier than -- maybe I am wrong that it shows
3 up in the beginning of the next plan, but on the spur
4 of the moment I'm just going by that where it shows up.

5 MADAM CHAIR: The Board's understanding
6 is that an operation like this report would be reported
7 in the report on past forest operations, but if the
8 public were interested in seeing annually what was
9 done, if this wasn't planned in the annual work
10 schedule, then they wouldn't see it until the five-year
11 review of the plan.

12 THE WITNESS: That's correct. I think
13 for most public I think they would find it hard to find
14 in the annual work schedule or to keep up --

15 MADAM CHAIR: If it were planned.

16 THE WITNESS: If it were planned, yes.

17 MR. MARTEL: If it were planned, let
18 alone...

19 THE WITNESS: Right. I think what you
20 need is an executive summary. I don't like that term
21 but -- and perhaps a yearly update type of sheet that
22 could go along with a summary of what's been happening
23 on the management plan over a time period.

24 Spruce Falls does have a map of their
25 particular area. I think it's in one of our slides,

1 too, where they show the general location of the
2 forest. I think it's a start at trying to introduce
3 the public to what's going on there. Underfortunately
4 there were no brochures when we went through that area.

5 MR. CASSIDY: Q. Could I come back to
6 Exhibit 1648, if I might, Madam Chair, and get back to
7 on the ground as it were with respect to this
8 photograph.

9 I take it you don't have any objection,
10 Mr. Benson, to planting or seeding of conifers to
11 replace balsam fir in selected areas? I am talking
12 about natural balsam fir.

13 A. That's sort of an open ended
14 question. If you are harvesting an area and if you
15 could obtain cheaper natural regeneration where that
16 balsam fir is now, if there were sufficient seed trees
17 or trees of the species you desire, be it jack pine or
18 spruce available to harvest it naturally, then I would
19 say go that way.

20 If you were in a case where there was a
21 larger area of balsam fir, well, it might not be
22 practical and you might want to choose an artificial
23 method.

24 Q. So in an area where it is not
25 practical, you would support the conversion from a

1 hardwood to a softwood -- from balsam fir to jack pine
2 or spruce?

3 A. Yes. I think the other fact you have
4 to consider, too, is why is it balsam fir, was it an
5 older cut-over, was it the result of an old past cut
6 where the regeneration that came up was not what you
7 wanted but was balsam fir.

8 In a case like that, it would be almost
9 reclamation work rather than what I would call
10 regeneration work; in other words, you are trying to
11 put the land back into production.

12 Q. You didn't check the records to see
13 what this area was originally, whether or not it had
14 been harvested or whether that was an original stand?
15 I am talking about the area around Souden Lake.

16 A. Whether it had been harvested before?

17 Q. Or whether it was an original stand.

18 A. I'm not too sure what -- what in
19 effect you are saying is this was a second harvest on
20 the area?

21 Q. No. Mr. Ferguson informs me that
22 that area was never harvested before and that is an
23 original balsam fir stand; in other words, that's
24 answering your question, sir, what it originally was.

25 A. All right.

1 Q. I am asking if you checked that area
2 to see what that was?

3 A. No, I didn't, no. I think in that
4 case it brings up another point. If it was an original
5 balsam fir stand, it's a problem. If you wanted to
6 maintain the naturalness of the area, do you retain
7 stands like that or do you substitute in other balsam
8 fir stands that we have managed to obtain else wise.

9 So I think when you make a decision on an
10 area like that you have to consider the whole
11 management unit.

12 Q. That's something that should be left
13 at the discretion of the forester?

14 A. If you are looking at all the
15 resources it should be left to the forester and the
16 other people that are looking at the management of the
17 area for all the resources of the management unit.

18 MR. CASSIDY: Madam Chair, I am about to
19 move on to other area and I see it is five to twelve.
20 I am in your hands.

21 MADAM CHAIR: Let's start our lunch break
22 now, Mr. Cassidy.

23 MR. CASSIDY: We are moving along at the
24 pace I anticipated, Madam Chair. I should be finished
25 by noon tomorrow.

1 MADAM CHAIR: All right. Fine, thank
2 you.

3 MADAM CHAIR: All right. We will be back
4 at 1:30. Thank you.

5 ---Luncheon recess taken at 11:55 a.m.

6 ---On resuming at 1:35 p.m.

7 MADAM CHAIR: Good afternoon. Please be
8 seated.

9 MR. CASSIDY: Q. Mr. Benson, if we could
10 turn to page 212 of the witness statement that's in
11 Volume II, Exhibit 1604B. Do you have that?

12 A. I do.

13 Q. And the last sentence on that page
14 reads that, with respect to the English River FMA, you
15 state that:

16 "Harvesting of the spruce and jack pine
17 working groups have exceeded the planned
18 harvest and the planned harvest has been
19 larger than the allowable cut."

20 You refer to your Table 15.1 on page 216.

21 You were aware, sir, that under the then
22 existing timber management system FMA companies are
23 were permitted to exceed the allowable cut by 10 per
24 cent?

25 A. Yes, I was.

1 Q. And that, in fact, would account for
2 that difference between planned harvest and maximum
3 allowable depletion or allowable cut; would it not?

4 A. Yes, it would.

5 Q. All right. So that was not a matter
6 of a company going over what it was permitted to by
7 MNR; was it?

8 A. No, I wasn't identified it as that
9 either.

10 Q. If I could then show you a table
11 which you have been provided with from the English
12 River Forest Timber Management Plan for 1990 through to
13 1995. (handed)

14 MADAM CHAIR: Thank you.

15 MR. CASSIDY: It is Table 4.1. And this
16 table, perhaps we can mark it as the next exhibit,
17 Madam Chair.

18 MADAM CHAIR: That's Exhibit 1649.

19 What is this, Mr. Cassidy?

20 MR. CASSIDY: It is Table 4.1, Report of
21 Depletion by Area from the Report of Past Operations
22 contained in the timber management plan for the English
23 River Forest for the years 1990 to 1995.

24

25

1 ---EXHIBIT NO. 1649: Table 4.1 entitled Report of
2 Depletion by Area from the
3 Report of Past Operations
4 contained in the timber
 management plan for the English
 River Forest for the years 1990
 to 1995.

5 MR. CASSIDY: Q. Mr. Benson, if I could
6 first take you to the spruce reference on the first
7 page of Table 4.1, Exhibit 1649, you will see that
8 there are totals there represented for each working
9 group and the total of depletions is referenced there.

10 The plan under spruce over on the
11 right-hand column - it's actually five columns in from
12 the right, Madam Chair, from the right - you see the
13 totals in the column there, Mr. Benson, where it says
14 total and then underneath planned and actual?

15 A. Yes, I do, under subtotal.

16 Q. No, total, sir, on the right-hand
17 side, five from the right. Not five from the left,
18 five in from the right.

19 A. Sorry, right.

20 Q. It says total planned and total
21 actual and then beside it has MAD which is maximum
22 allowable depletion. Do you see that column as well?

23 A. Yes, I do.

24 Q. Now, we see with respect to this
25 table, which you will see refers to the period from

1 1985 to 1990, that the planned harvest was 13,146, the
2 maximum allowable depletion was 11,825, but the actual
3 was less than the maximum allowable depletion; that is,
4 it was 11,069. Do you see that, Mr. Benson?

5 A. Yes, I do.

6 Q. So not only was the actual harvest
7 less than the planned harvest which you referred to in
8 your evidence, it was also less than the allowable cut
9 or MAD; was it not?

10 A. Yes, but we are dealing with
11 different figures which might account for the
12 difference.

13 Q. Right. Your figures did not refer to
14 this table; is that correct?

15 A. The figures I used -- I had two
16 sources of figures for this. First, I used the annual
17 reports that were provided as part of the EA hearings
18 and there was only one year provided in that to work
19 with, and there was also the figures that were provided
20 to the EA hearings that I used for Table 5.1 in Part 1
21 and that gave figures for two years for this particular
22 unit. So those were the figures I used and were the
23 most up-to-date figures I had at the time I did the
24 report.

25 MADAM CHAIR: Excuse me, Mr. Benson.

1 Which page is Table 5.1 on?

2 THE WITNESS: That's on page 73 of...

3 MADAM CHAIR: Exhibit 1604A.

4 THE WITNESS: 1604A.

5 MR. CASSIDY: Q. So, in fact, this
6 period that I referred to in Exhibit 1649 covers a
7 longer period for the full five year plan stage from
8 1985 to 1990; right?

9 A. That's correct.

10 Q. So, in fact, this gives you a better
11 picture of what happened during that five-year planning
12 period than your Table 5.1; does it not?

13 A. Yes, it is more up to date, sure.

14 Q. Having had it up to date, would you
15 agree that, in fact, with respect to this evidence you
16 were wrong and that, in fact, actual harvest was less
17 than planned and was less than the maximum allowable
18 depletion?

19 A. I don't think I can agree to it in
20 those terms because it certainly wasn't wrong based on
21 the data that I had.

22 Q. I am suggesting your -- sorry, go
23 ahead.

24 A. If I was looking at the new data, I
25 would have reached a different conclusion. So I don't

1 think saying that I was wrong is a correct way to state
2 it.

3 Q. So your data is out of date then,
4 sir; correct.

5 A. The data was the latest data
6 available when I got it.

7 Q. And as of today that data is out of
8 date; correct?

9 A. According to what I have in my hand
10 here now, yes, it is out of date.

11 MADAM CHAIR: Mr. Benson, wasn't one of
12 your overall conclusions from your review of these
13 various management units that in many cases they didn't
14 exceed the allowable cut, they didn't meet the
15 allowable cut with their actual harvesting levels?

16 THE WITNESS: In many cases, that's
17 correct.

18 MR. CASSIDY: Q. Now, I want to move to
19 photograph 443 and it might be best just to refresh the
20 Board's memory by having that flashed just quickly, Mr.
21 Benson.

22 A. 443?

23 MR. CASSIDY: If I could just have a
24 minute.

25 Q. This is the Temagami area; is that

1 correct?

2 A. That's correct.

3 Q. All right. Now, you indicated in
4 respect of this photograph and I think also in respect
5 of other photographs - that's fine you can turn the
6 light on now - that there was an abundance of hardwood
7 that had been regenerated and shown in the cut-over
8 areas. Do you recall that?

9 A. In the Temagami area, yes. There's
10 almost two different classifications of hardwood, I
11 would think, in that area, the tolerant hardwoods and
12 poplar and -- the tolerant hardwoods as opposed to
13 poplar and white birch.

14 Q. Has herbicide spraying been permitted
15 in the Temagami unit?

16 A. It hasn't been permitted as far as I
17 know for the last few years.

18 Q. How far back; do you know?

19 A. That I don't know.

20 Q. You have some knowledge of the
21 Temagami unit in particular; don't you?

22 A. Yes, I do.

23 Q. But you are not able to tell me the
24 extent or duration of herbicide use historically?

25 A. I would have to check the record to

1 make sure, and the problem I have had with that unit is
2 to get all the silvicultural records for that unit. So
3 I could be amiss in what I told you, even if I searched
4 what I do have.

5 Q. All right. But it is your best
6 information now that herbicide use has not been
7 permitted in that area for some years?

8 A. For the last three years for sure
9 that I'm aware of. The past beyond that point, I'm not
10 too sure what they are doing that way.

11 Q. Okay, thank you. I want to move on
12 to page 47 and 48 of your witness statement which is in
13 Volume I, Exhibit 1604A. I wanted to refer you to the
14 top of page 48 and this is part of your conclusions on
15 wood supply.

16 Do you see that back on 47, Mr. Benson,
17 it is part of that section?

18 A. Yes, I do.

19 Q. All right. And the first full
20 sentence on page 48, as part of your conclusions states
21 that:

22 "The majority of the depleted area is
23 regenerated naturally, but scant
24 information is available regarding the
25 state of the regeneration."

1 I take it that when you say depleted area
2 you mean the depleted area within the area of the
3 undertaking; is that correct?

4 A. That's correct.

5 Q. Now, I would like to refer you to
6 page 124 of Exhibit 1137 which is the OFIA Panel 8
7 renewal witness statement.

8 MR. LINDGREN: Which page?

9 MR. CASSIDY: 123 and 124.

10 MR. CASSIDY: It it looks like this, Mr.
11 Martel. (indicating)

12 MR. MARTEL: What's the number?

13 MR. CASSIDY: Exhibit 1137.

14 Q. Now, if we could commence at page
15 123, you will observe that there is reference in the
16 results portion at the bottom of that page 2 to results
17 that are referred to in the next page which is Table 3
18 on page 124 referring to fifth year stock assessment
19 results.

20 You referred to this in your evidence -
21 and we will come to that in minute - but this deals
22 with FMA fifth year stock assessment results on this
23 page and the following page, Table 3; correct, Mr.
24 Benson?

25 A. Correct.

1 Q. All right. And we are dealing with
2 the scant information, your words are "scant
3 information is available regarding the state of the
4 regeneration", and do you see that in the results
5 discussion there in item No. 2 it refers to the success
6 of artificial regeneration and natural regeneration and
7 indicates that the artificial regeneration has reached
8 96 per cent and the natural regeneration has reached 71
9 per cent of success fifth-year stocking assessments?

10 A. Yes, I see that.

11 Q. Would you agree that there is, in
12 fact, in that evidence evidence of the state of the
13 regeneration and that you in fact did not refer to that
14 table in respect of your statement on page 48?

15 A. It shows for the FMAs -- the 16 FMAs
16 what the state of the regeneration is.

17 The other question concerning the
18 regeneration is the part of the land base that hasn't
19 been treated one way other or another for natural or
20 artificial regeneration and what is the state of that
21 land.

22 Q. Well, you will see that the natural
23 regeneration that's referred to there, Mr. Benson, is
24 in fact variable techniques of both passive and active
25 natural regeneration. Do you agree with that?

1 A. I'm sorry, I didn't see the words
2 passive and active.

3 Q. Well, the words are viable or
4 technique under Item 3 and it relates to both and I
5 will identify for you at the break further evidence in
6 that respect, sir, when we come back to that.

7 Would you accept that in fact this is
8 evidence in respect of the natural regeneration,
9 subject to dealing with what that natural regeneration
10 covers, that establishes that there is 71 per cent of
11 success with respect to natural regeneration in this
12 province on FMA areas?

13 A. For 16 FMA areas.

14 Q. Right. And, sir, I want to now go to
15 where you do discuss this figure of 71 per cent and
16 this Table 3 in your evidence and you referred to that
17 on page 109 of your evidence.

18 You will see that's in Volume I, Mr.
19 Martel.

20 You will see at page 109 in the middle of
21 the page you state:

22 "Natural regenerations that have been
23 applied on FMAs have worked."

24 And do you see that at page -- you then
25 cite No. 198 and you refer to page 124 of Exhibit 1137.

1 Do you see that?

2 A. Yes, I see that.

3 Q. In fact, sir, I suggest to you that
4 those natural regeneration methods are not involving
5 modified harvesting or strip cutting of any type, those
6 in fact represent clearcut numbers?

7 A. I suppose it's possible. It depends
8 how the data has been put together. Again, it's not
9 clear from the figures that I examined.

10 Q. But it is clear from the
11 transcript -- and overnight I will provide you with a
12 transcript reference of your counsel cross-examining
13 the renewal witnesses on that table to establish the
14 fact that there was very little modified harvesting
15 done in the accumulation on the areas covered by this
16 area table.

17 As a result, I suggest you have misled
18 this -- or misrepresented this table to suggest that it
19 is natural regeneration after modified harvesting when,
20 in fact, the regeneration that was referenced is
21 dealing with matters of larger scale clearcuts.

22 MS. SWENARCHUK: Where are the words that
23 suggest any misleading? Where are the words that
24 suggest that he used this data to tell the Board that
25 the natural regeneration was resulting from modified

1 harvesting?

2 Let's not have sandbagged questions
3 without foundation, Mr. Cassidy.

4 MR. CASSIDY: Q. Let's refer to page
5 108, natural regeneration with smaller size clearcuts
6 meets the requirements for providing the seed source.

7 Are you suggesting that this portion of
8 your evidence is not dealing with modified harvesting?

9 Let's move on to the top of page 109:

10 "Research and natural regeneration
11 deserves more study especially as it is
12 the predominant method used by method of
13 default to regenerate the majority of the
14 cut-over in Ontario, yet very little
15 through modified cutting."

16 You then go on to say:

17 "It is dealing with natural regeneration
18 methods."

19 Now, what I am suggesting to you, sir, is
20 that one in the same with your dealing with natural
21 regeneration, you are talking about modified harvesting
22 here?

23 MS. SWENARCHUK: I think the record
24 speaks for itself, Madam Chair, Mr. Martel.

25 THE WITNESS: I think there is a number

1 of questions there, but certainly I have not tried to
2 deliberately mislead anyone and I certainly don't
3 respect being charged that way.

4 I have come here under a fair bit of
5 duress and I have tried to be honest with both the way
6 I have written the reports and the way I have been
7 answering and I resent that type of comment.

8 MR. MARTEL: There is something bothering
9 me because I think if one reads the next sentence it
10 says:

11 "Natural regeneration methods that have
12 been applied on FMAs have worked and even
13 areas that were not harvested in the most
14 favourable manner to promote natural
15 regeneration satisfactorily regeneration
16 has occurred."

17 So I am finding it difficult in my mind
18 to get a handle on where the deliberate misleading has
19 come from. So maybe someone can run that by me again,
20 so I can understand how this deliberate
21 misrepresentation has occurred.

22 MR. CASSIDY: Well, Mr. Martel I will be
23 happy to explain--

24 MR. MARTEL: Please do.

25 MR. CASSIDY: -- my position because I am

1 suggesting to this witness that if he is referring to
2 the natural regeneration methods that have been applied
3 on FMAs that worked, if he is referring to that as
4 being as a result of modified harvesting operations,
5 that it is misleading.

6 The evidence that his own counsel
7 produced earlier was that natural regeneration methods
8 that have worked, referencing Table 3 on page 124, in
9 fact occurred on large scale clearcuts.

10 The whole tone of this section, that
11 paragraph and the paragraph before, talks about natural
12 regeneration with its smaller size of clearcuts. You
13 can see that on page 108.

14 Now, if the witness is now taking the
15 position that that statement that natural regeneration
16 methods that have been applied on FMAs have worked is
17 in reference to larger scale clearcuts, then I don't
18 know why he comes here and says that large scale
19 clearcuts are wrong when, in fact, the evidence is
20 clearly the opposite.

21 MS. SWENARCHUK: Well, I think--

22 MR. CASSIDY: He admits it on page 109.

23 MS. SWENARCHUK: --Mr. Cassidy has not
24 managed to answer Mr. Martel's question and perhaps the
25 only, and I request, if that is to be done, the

1 appropriate way to extricate ourselves from this
2 unpleasant discussion is for Mr. Cassidy to concede
3 that no such "deliberate representation" attempt has
4 been made and lets move on from that point.

5 MR. CASSIDY: I never used the word
6 deliberate. All I am saying is that this could be and
7 is misleading and/or misrepresenting if the witness is
8 taking the position that on that page where he is
9 referring to Table 3 of page 124, he is referring to
10 natural regeneration methods, to use his words, within
11 smaller size of clearcuts.

12 MS. SWENARCHUK: Which is not in the
13 sentence that you were claiming is misleading.

14 MR. MARTEL: I want to go back to the
15 sentence because it says:

16 "Natural regeneration methods that have
17 been applied on FMAs have worked. See
18 Figure 3 or 7 on page 117."

19 MADAM CHAIR: Mr. Cassidy --

20 MR. MARTEL: I want to know where I am
21 wrong, where I am misunderstanding what you said, Mr.
22 Cassidy. I am just trying to get this in its proper
23 perspective because Mr. Benson's statement is very
24 clear. I just want to know -- maybe go a little slower
25 for me and link it up.

1 MR. CASSIDY: Absolutely. Mr. Martel,
2 Madam Chair, when we start at page 108 we see the
3 reference to natural regeneration with its smaller size
4 of clearcuts and it refers to meeting the requirement
5 for providing the seed source.

6 MR. MARTEL: That's for seed source, it
7 has nothing do with anything else yet.

8 MR. CASSIDY: That's right, but there is
9 a clear association in my mind of natural regeneration
10 with smaller size of clearcuts.

11 MR. MARTEL: No, but do you disagree -- I
12 mean, I know you are not giving evidence, but my
13 difficulty is, it says natural regeneration with
14 smaller size of clearcuts meets the requirement..."

15 I don't think anyone in this room would
16 say that if you have smaller -- if you have more trees,
17 and that's in the essence of reducing the clearcut
18 size, that you would have a seed source.

19 I mean, I don't think that has any
20 reference to the size of clearcutting. It's talking
21 about seed source.

22 MR. CASSIDY: That's clear, Mr. Martel.

23 MR. MARTEL: I am trying to keep these
24 things straight, Mr. Cassidy.

25 MR. CASSIDY: I am trying to get it

1 straight, too.

2 MR. MARTEL: All right.

3 MR. CASSIDY: My position is, if Mr.

4 Benson is suggesting with his reference on page 109 to

5 natural regeneration methods that have been applied on

6 FMAs have work, if he suggesting or implying - and

7 perhaps he can answer this question - that natural

8 regeneration was as a result of smaller size of

9 clearcuts, then I suggest that is misleading because

10 that was not the evidence.

11 MADAM CHAIR: Was that your implication,

12 Mr. Benson?

13 THE WITNESS: The way the clearcuts -- or

14 the way that the regeneration is reported in the stats

15 for Ontario includes a number of different methods for

16 modified cutting, strip cutting, block cutting and

17 clearcutting, and I think it's really a total of all

18 those particular methods that it would refer to.

19 I don't believe it's all clearcutting

20 either. It's difficult for me to separate out what the

21 16 FMAs measured there, whether they were clearcut or

22 block cut or modified cut or what. I don't know that.

23 MR. CASSIDY: Q. I can tell you, sir,

24 and I will give you the transcript at the break if you

25 wish, your counsel cross-examined on that table and

1 established that very little of that harvesting that is
2 referred to in Table 3 on page 124 was as a result of
3 modified harvesting and, in fact, it was virtually all
4 larger size clearcuts.

5 What I am suggesting to you, sir, is that
6 if it was your intention to rely on that evidence in
7 support of an argument that it is with smaller size
8 clearcuts that natural regeneration has been
9 successful, and you referred to Table 3, that is
10 misleading.

11 Now, whether you did it deliberately or
12 not what, I don't really care, but what I do care about
13 is that it has been misrepresenting the OFIA evidence
14 and, in fact, it suggests exactly the opposite
15 conclusion is true, that large clearcutting leads to
16 successful natural regeneration.

17 MS. SWENARCHUK: Well, Madam Chair, we
18 are simply reiterating an argument which, in due
19 respect to my friend, arises from his misreading of
20 this page and Mr. Benson's witness statement and
21 perhaps, he has made his point, tedious as it is,
22 repeatedly. Perhaps we can move on.

23 MR. CASSIDY: Q. I would like to know
24 the answer to my question.

25 A. I would like to answer your question.

1 Q. Good.

2 A. On page 93 of my Volume I, it shows
3 the type of regeneration on Crown land in Ontario and
4 it shows the three categories of regeneration for the
5 cut land: artificial, natural and unplanned and
6 unplanned is fairly large. We look on -- well, that
7 will do for that.

8 What I am saying then, there is
9 artificial regeneration that occurs, there is some
10 planned natural regeneration that occurs, but there is
11 a lot of unplanned regeneration that occurs.

12 Now, why isn't that planned for? Natural
13 regeneration can work. Now, when you get into whether
14 it was regeneration on a clearcut or a strip cut or a
15 block cut, again it depends how you want to define what
16 a clearcut is. It's my understanding that if it
17 is greater than a certain width it is a clearcut, less
18 than a certain width it's called a strip cut.

19 It certainly was not my intent to say or
20 to use that evidence to say that it's all strip cut or
21 block cut. I have no idea from what was presented in
22 that table, it didn't specify in that table what type
23 of modified natural regeneration it was.

24 My contention would be, though, that you
25 could probably get better natural regeneration if you

1 did it in such a way that you had the seed source
2 closer to the land that was harvested rather than go
3 for a larger clearcut.

4 Q. Is it your evidence that the natural
5 regeneration methods that have been applied on FMAs
6 have worked, this statement on page 109?

7 Is it your evidence that area was an area
8 that used smaller size clearcuts or larger clearcuts?

9 A. I'm sorry, the last part of your
10 statement?

11 Q. Is it your evidence that the area
12 referred to on Table 3, page 124 of Exhibit 1137, and
13 which is referenced in that statement on page 109 of
14 your witness statement is an area that where modified
15 harvesting was done or where larger scale clearcutting
16 was done?

17 A. I would presume that it would have to
18 be both.

19 Q. All right.

20 A. According to the FMA records that I
21 have looked at, and I don't know which 16 they are
22 referring to, but some of them have used modified
23 harvesting.

24 Q. Your evidence -- I'm sorry, go
25 ahead.

1 A. Some of them have used modified
2 harvesting such as block cuts or strip cuts and have
3 documented that in their annual reports.

4 Q. Did you review the transcripts of
5 OFIA Panel 8 witnesses before coming here today?

6 A. No, I didn't.

7 Q. All right. I am going to produce for
8 you the transcript reference overnight, sir, which your
9 counsel established that very little of that area was
10 the subject of modified harvesting.

11 Now, if that's the case, would you agree
12 with me that the natural regeneration figures upon
13 which you rely on page 109 support exactly the opposite
14 conclusion and that is that natural regeneration does
15 work on larger scale clearcuts?

16 A. I think I would have to see a lot
17 more documentation considering the way numbers are
18 being thrown around here. I would have to see the
19 exact numbers for the exact areas to know just exactly
20 what has been done in a case like this.

21 Q. To conclude on this, it is not your
22 evidence, I take it, that the natural regeneration
23 methods that have applied on FMAs have worked, that
24 phrase is in reference to smaller modified harvesting
25 operations and natural regeneration? That's not your

1 evidence; correct?

2 A. I'm sorry, say that again.

3 Q. Well, you are not taking the position
4 with that statement --

5 A. That statement being what?

6 Q. Natural regeneration methods that
7 have been applied on FMAs have worked.

8 You are not taking the position that that
9 is only in reference to modified harvested areas;
10 correct?

11 A. No.

12 Q. All right.

13 MADAM CHAIR: Given that response, Mr.
14 Cassidy, is there any need for Mr. Benson to go through
15 the transcript tonight.

16 MR. CASSIDY: No. What I am going to do
17 is give him the transcript reference. As I recall it
18 is three pages, Madam Chair, and we will give that to
19 him at the break. It should be relatively easy for him
20 to read overnight and then we will deal with it in the
21 morning.

22 MADAM CHAIR: What's left to deal with,
23 Mr. Cassidy?

24 MR. CASSIDY: Well, if he doesn't accept
25 what I have just stated about what the evidence was,

1 then I want to give him the fair opportunity to look at
2 that transcript where Mr. Castrilli, I believe it was,
3 or perhaps it was Ms. Swenarchuk, in fact
4 cross-examined on that and established those points.

5 I think it would only be fair to the
6 witness to give him that opportunity unless he is
7 prepared to accept what I just said and if Ms.
8 Swenarchuk is prepared to accept it, then we can move
9 on.

10 THE WITNESS: You have said quite a bit
11 and I haven't accepted all of it.

12 MR. CASSIDY: Then I better give him that
13 portion of the transcript, Madam chair. As I
14 indicated, three or four pages.

15 MADAM CHAIR: All right. Mr. Benson,
16 your evidence as the Board understands it so far is
17 that you are saying we have data that shows natural
18 regeneration has worked in all kinds of cut-overs.

19 Furthermore, you think natural
20 regeneration would work better if it were in smaller
21 clearcuts because of the proximity of seed source.

22 That's the evidence the Board takes so
23 far from what you have said.

24 THE WITNESS: Yes. I would add to that
25 the first sentence on page 109, the fact that research

1 into natural regeneration methods deserve more study,
2 especially as it is the predominant method used in
3 Ontario.

4 There is a lot of questions marks on what
5 is the best way to naturally regenerate an area.

6 MR. CASSIDY: Q. All right. Now, if I
7 could move on to the statement you made last year in
8 Volume 270 in dealing with the issue of future yields.

9 You stated at page 48,777 -- you were
10 asked by your counsel:

11 "With regards to the Industry estimate of
12 future yield per hectare, why do you
13 consider the suggestion of
14 up to 70 cords per acre unduly
15 optimistic?"

16 And you state:

17 "It might be for some areas, but it would
18 be a very limited area. It's not a
19 figure you could use for the whole
20 province."

21 You also stated at page 67 and 68 that
22 that figure is unduly optimistic.

23 Now, I would like to refer you to Volume
24 207 of the transcript. Do you have that, Mr. Benson?

25 A. What is the first one you read off,

1 what volume was that one? 270?

2 Q. Yes.

3 A. Pages...?

4 Q. 48,770.

5 MADAM CHAIR: 770?

6 MR. CASSIDY: 70, yes.

7 MADAM CHAIR: Thank you. The second
8 transcript reference?

9 MR. CASSIDY: It was 48,777 and the
10 second transcript reference I would refer you to is
11 Volume 207 and I will come to that in a minute.

12 Q. You referred in your evidence at page
13 68 to that figure being unrealistic or optimistic --
14 unduly optimistic, the figure of 70 or 71 cords per
15 acre, and in your evidence at the page reference I had
16 given you, you said it shouldn't be used for the whole
17 province.

18 Now, I would like to refer you to Volume
19 207, page 36,931.

20 MADAM CHAIR: Which page is that, Mr.
21 Cassidy, in Volume 207?

22 MR. CASSIDY: 36,931.

23 MADAM CHAIR: Thank you.

24 MR. CASSIDY: Q. You will see a
25 reference to evidence from Mr. Smith there in which he

1 states that:

2 "In our area we would anticipate which
3 Genetic improvement that we could
4 conceivably reach between 50 and 71."

5 Do you see at that, Mr. Benson?

6 A. I do.

7 Q. In fact, you referred to that page in
8 your evidence at page 68 or 69.

9 Then Mr. Castrilli was cross-examining, I
10 believe, and he went on to deal with Mr. Buntz and Mr.
11 Buntz indicated that:

12 "He would see similar curves, but
13 probably not 71."

14 And Mr. Smith was dealing with a
15 situation where there was genetic improvement applied.

16 Do you see that on page 36,931? Do you
17 see where he stated that, Mr. Benson?

18 A. At the top of the page?

19 Q. Yes.

20 A. Right.

21 Q. So Mr. Smith was dealing with a
22 situation where genetic improvement was calculated in;
23 correct?

24 A. That's correct.

25 Q. And Mr. Ferguson said:

1 "It is difficult to say if in his area he
2 would actually achieve the 71."

3 And then if we go over to page 36,933, if
4 you look at the beginning of line 3 on that page, Mr.
5 Buntz stated:

6 "I don't know think any of us..."

7 meaning the OFIA members on that panel,

8 "...are harvesting stands which are
9 producing genetically superior stock
10 of precommercial thinning."

11 And Mr. Buntz on page 36,934 at line 14 -
12 that's the next page Madam Chair - said:

13 "I'm not sure we provided estimates of
14 the yield. As I noted here, I think each
15 company may have estimates in its own
16 yield programs for what it could expect
17 from those ones."

18 If you flip over to page 36,939, Mr.

19 Buntz stated:

20 "I think it's very hard..." I am looking
21 at line 20 on that page:

22 "I think it's very hard to give you an
23 average across the area of the
24 undertaking of 15 or 20 or whatever. I
25 think it changes depending on the site

1 you have and the species that are on that
2 site."

3 Now, having had a chance to review those
4 transcripts, Mr. Benson, would you agree that the
5 OFIA's position was not as you suggest or imply that
6 there was one figure of 71 cords per acre that could be
7 applicable across the province?

8 A. Could you give me that first
9 reference. I think you said 48,770.

10 Q. 48,777. That's your evidence.

11 A. Your question is...?

12 Q. Would you agree with me that the OFIA
13 in their evidence never took the position that you
14 could use that figure across the whole province?

15 A. That's correct.

16 Q. So, therefore, when you made that
17 statement on 48,777 you were not referring to any
18 position that the OFIA took; correct?

19 A. With respect to applying the...

20 Q. 71 cords per acre over the whole
21 province?

22 A. Over the whole province, right.

23 Q. With respect to the figure referred
24 to on page 68 of your evidence, the estimates of future
25 yields per hectare, 71 cords per acre are unduly

1 optimistic, would you agree that that figure was used
2 as a figure on an experimental basis for herbicide
3 efficacy in that evidence and was not used as an
4 overall yield estimate across the province?

5 A. I agree with the latter part of your
6 sentence. I'm not clear where you get the first part
7 of your sentence from.

8 On page 36,931 of Volume 207, Mr. Smith
9 had said it was based on genetic improvement.

10 Q. And would you agree that Mr. Buntz
11 later on stated that no one is using that -- doing that
12 type of harvesting now, and that's at 36,933, line 3?

13 "I don't think any of us are harvesting
14 stands which were produced from
15 genetically superior stock."

16 A. Yes, that's what Mr. Buntz says.

17 Q. Would you agree, therefore, that
18 there is no evidence that the Industry has ever taken
19 the position that 71 cords per hectare is an
20 estimate of yield?

21 A. I'm sorry, that it was never an
22 estimate of yield?

23 Q. Of 71 cords per acre across the
24 province.

25 A. Is that one question or two

1 questions?

2 Q. That's one question.

3 A. No, they haven't used that across
4 the province.

5 Q. And would you agree that, as you
6 indicated in your evidence at page 48,777, it might be
7 good for some areas, but it would be a very limited
8 area, would you agree that no one in Panel 8 with
9 respect to renewal ever suggested that it would go to
10 71 cords per acre everywhere other than the areas that
11 Mr. Smith was taking about might be applicable with
12 genetic improvement?

13 A. I presume the implication was of Mr.
14 Buntz, too, that he gave a different scenario there
15 with superior stocking, precommercial thinning and
16 planting and herbicide treatments.

17 They are talking about the same number in
18 that case, I think, so there are two different
19 scenarios there.

20 Q. There are a whole variety of
21 scenarios there and I am asking if you agree that the
22 Industry has never taken the position that 71 cords per
23 acre is possible across the province, or if possible is
24 only available in a limited area with genetic
25 improvement?

1 Do you agree that's the position of the
2 Industry as indicated by these witnesses?

3 A. I don't see the limited area, but
4 they haven't taken the position that it would be that
5 way across the province.

6 Q. All right. If we could move on to
7 page 48,799 of the transcript which is Volume 270. Do
8 you have that, Mr. Benson?

9 A. 48,799?

10 Q. Yes.

11 A. I do.

12 Q. You stated with respect to the issue
13 of a subsidy commencing at line 9 on that page:

14 "A subsidy is a subsidy, I guess. What
15 we are doing is if you are going into
16 intensive forestry in Ontario and you are
17 asking the government to pay for the cost
18 of regeneration and you are not going to
19 recover the cost of that regeneration
20 either directly or consider interest
21 payments in the future, well then you are
22 subsidized in that particular interest or
23 that particular industry."

24 The next paragraph states:

25 "I think an analogy was made back a few

1 years ago in Thunder Bay by a person
2 where he equated it to: It would be nice
3 if the government replaced the inventory
4 in his store, if we had a store and the
5 government came along and replaced the
6 inventory for him at the government's
7 cost instead of him buying inventory."

8 Would you agree, sir, that the store
9 owner in the area of the undertaking with respect to
10 the matter we have before us is the government itself?

11 A. The store owner is the -- I guess it
12 is an argument. Some people think it is the people
13 that are the owner, not the government.

14 Q. But the people represented by the
15 Crown own the land, correct, in the area of the
16 undertaking that we are dealing with here?

17 A. For the Crown land.

18 Q. So the analogy then is dealing with a
19 store owner being the Crown, representing the people,
20 replacing his own inventory? That's the more proper
21 analogy; isn't it?

22 A. No, I don't think so.

23 Q. How many store owners sell their
24 inventory and then require the customer to replace what
25 they buy?

1 A. The customer replaces what he buys
2 because he pays for an object, pays a price for that
3 and that price includes the cost that the store owner
4 has had to pay to put that item in a store, pays for
5 his cost of holding it in his inventory, pays for any
6 cost he has for maintaining that store, paying for
7 utilities and it also pays - hopefully if he is still
8 in business - pays him a profit.

9 Q. He should pay all of his costs then;
10 right? Whatever the store owner sells he should
11 recover back his full costs?

12 A. And if he hopes to be successful he
13 should recover back his full costs plus some extra.

14 Q. And that would be consistent with
15 your evidence in which you stated that:

16 "If we're paying for the regeneration
17 cost and not receiving those costs with
18 the interest involved in that for growing
19 that forest we are subsidizing the
20 Industry from that point of view."

21 You are not making full cost recovery;
22 correct?

23 A. Correct.

24 Q. Subsidy is where there is a net cost
25 to the government; correct?

1 A. That would be right.

2 Q. All right. Well, I want to show you
3 an article that you wrote some five days after you
4 wrote this witness statement and I have given you a
5 copy earlier. You wrote this paper which is called
6 Funding Mechanisms -- I'm sorry, if I could the Board's
7 copy back, I have one that has Board's copy written
8 right on it.

9 MADAM CHAIR: Thank you. This will be
10 Exhibit 1650.

11 MR. CASSIDY: It is entitled Funding
12 Mechanisms for Silviculture, a Position Paper by the
13 Forest Economics and Policy Working Group of which you
14 are a member and it is dated September 19, 1990.

15 ---EXHIBIT NO. 1650: Document entitled Funding
16 Mechanisms for Silviculture, a
17 Position Paper by the Forest
Economics and Policy Working
Group, dated September 19, 1990.

18 MR. CASSIDY: Q. I understand, sir, that
19 that is a working group of the Canadian Institute of
20 Forestry or CIF; is that correct?

21 A. That's correct.

22 Q. Now, you stated as part of this
23 document, and I want to refer you to the bottom of page
24 2, where in the last paragraph you state:

25 "The working group..." of whom you were

1 a member,

2 "...stresses that both of government and
3 the forest industry share the benefits
4 derived from forest resources, especially
5 through commercial timber harvesting and
6 processing. A fundamental principle,
7 therefore, is that all three parties must
8 share in the cost of forest management
9 including silvicultural, protection and
10 research and development."

11 You also stated on page 4 at the bottom,
12 page 6, Public Policy and Funding Strategy:

13 "From an efficiency perspective..." and I
14 am reading the last two sentences under Item No. 6.

15 "From an efficiency perspective, industry
16 should be encouraged to conduct most
17 forest renewal, tending and improvement."

18 You then state:

19 "However, incentives are needed to
20 increase the financial benefits of
21 investigating in silviculture."

22 I suggest to you, sir, that in fact in
23 this paper you recognize that there is a cost that
24 government has to pay in forest management, timber
25 management in this province.

1 In fact, that was recognized by a group
2 of which you were a member when you stated that:

3 "A fundamental principle therefore..."
4 on page 2,

5 "...is that all three parties must share
6 in the cost of forest management
7 including silviculture, protection and
8 research and development."

9 A. That was a long sentence, could you
10 give me the gist of it again?

11 Q. I suggest to you, sir, that when you
12 wrote this paper five days after you wrote your witness
13 statement you stated that government should share in
14 the cost and now you have come here and tell us that
15 government should not share in the cost and there
16 should be full recovery and, in fact, you analogized it
17 to a moose licence costing \$1,000 to produce a moose
18 and the moose license should be \$1,000.

19 A. That was an example given to me, the
20 moose license, not an example I gave, the thousand
21 dollars.

22 As for the paper, the paper is a paper of
23 a working group to which I contributed; it's not solely
24 my paper. Certainly I contributed ideas to the paper,
25 ideas contrary to some of the other people on the group

1 there.

2 Certainly F.L.C. Reid and myself don't
3 see eye to eye. It's a working group paper, it not my
4 paper. I contributed to it, tried to put my ideas
5 across, but it certainly is not reflection of my
6 opinion solely.

7 I would think if you wanted to find my
8 opinions a little more clearly expressed would be in
9 the papers that I had done, The Need for Extensive
10 Forest Management, I think, which stated it somewhat
11 clearer.

12 Q. Well, this is written after your
13 witness statement and what I am wondering, sir, is did
14 you write a dissenting view to this position paper?
15 Did you indicate anywhere in it that you disagreed and
16 wrote a dissenting view?

17 A. As I said, it's a position paper of a
18 working group. We worked together on it and put forth
19 our different ideas on it, and I tried to put forth
20 some of my ideas and I think I won some points with it
21 and I certainly didn't win all points and I wouldn't
22 expect to when working in a group.

23 Q. So you did not write a dissenting
24 opinion or follow-up dissent to this working group
25 paper?

1 A. I would say if you want to see a
2 dissenting opinion read the paper A Need for Extensive
3 Forest Management.

4 Q. You allowed your name to be on this
5 document?

6 A. Well, I didn't realize it was going
7 to be on the document, no, but it doesn't -- I
8 certainly contributed to it.

9 Q. You would agree that the statement I
10 read are directly inconsistent with what you stated to
11 me earlier today?

12 A. That I stated to you earlier today?

13 Q. That there should be no net cost to
14 government.

15 A. I don't think I stated that today.
16 You are reading from the evidence from before that's
17 what I stated, is that...

18 Q. Both.

19 A. There would be inconsistencies, yes,
20 because it's a working group paper.

21 Q. So, you now disavow that statement I
22 read to you about the fundamental principles, that all
23 three parties must share in the cost of management,
24 including silviculture, protection research and
25 development?

1 You are now disavowing that?

2 A. Disa -- I'm not sure what you're
3 getting at here.

4 Q. All right.

5 A. I don't agree entirely with the paper
6 that way and I don't agree with the way that it is
7 stated in the paper.

8 If I was writing the paper by myself, it
9 would have a different conclusion to it. I didn't
10 write it by myself. I contributed to the paper,
11 reviewed it along with the others and the main author
12 of the paper would be Grant Milne, the Chairman of the
13 working group.

14 MADAM CHAIR: Mr. Benson, is your
15 position before the Board that you don't think the
16 forest industry should receive government subsidies
17 with respect to silviculture work and the related issue
18 of road construction?

19 THE WITNESS: My own opinion is I think
20 forestry should be run at a profit if we could from the
21 point of view of the Crown, if we could do that, that
22 it shouldn't be subsidized.

23 At the present time, with relationship to
24 the Industry, cost recovery is only in the range of 30
25 to 40 per cent. I think there should be a higher cost

1 recovery than that.

2 MR. CASSIDY: Q. One hundred per cent?

3 A. It would be nice if it could be 100
4 per cent, I think, for sustaining any industry in the
5 long run and not just from the point of view that you
6 have a government putting money into keeping an
7 industry going, but I think if they can do that and
8 still make a profit out of it, well, why not do it that
9 way.

10 Certainly from the point of view of the
11 Industry, if in the long run people want to recover the
12 cost of growing wood, the Industry is going to pay for
13 that extra cost.

14 MADAM CHAIR: And your previous evidence
15 before the Board, Mr. Benson, is that this approach
16 applies to the non-timber aspects of the forest, as
17 well as to the Industry?

18 THE WITNESS: That's my personal opinion
19 that I would like to see that, and that figure of a
20 \$1,000 a moose was...

21 MADAM CHAIR: I think I was the one who
22 came up with that as an example.

23 THE WITNESS: I would like to see that.
24 Now, that's probably a little bit more impractical at
25 this time, but I think part of the attitude of the

1 government is that it should be a user pay type of idea
2 for all the resources.

3 MR. MARTEL: I have a difficulty with all
4 of these great arguments when we talk about free
5 enterprise versus socialism and is it a free enterprise
6 society that we have and that socialism doesn't work.
7 I have been party to that kind of discussion for 25
8 years.

9 I still don't have an answer as to what
10 in our country, in this country what industry is really
11 after. Do they want a free enterprise system, do they
12 want a subsidized system, do they want a mixed economy.
13 I am not sure and maybe somebody is going to give us an
14 answer before we are through with this hearing as to
15 precisely what type of system they are looking at or
16 looking for.

17 In fact, not just this industry, but all
18 industries in this country of ours. It would be an
19 interesting answer to have.

20 MR. CASSIDY: No doubt. However, if we
21 start debating that we are probably going to be here
22 for another three years.

23 MR. MARTEL: It's a possibility.

24 MR. CASSIDY: What I am interested in is
25 the witness we have before us, Mr. Martel.

1 Q. What I am trying to get clear: Is it
2 now your position, Mr. Benson, that you disagree with
3 the statement that I read to you that was in the
4 working group paper:

5 "The fundamental principle, therefore, is
6 that all three parties should share in
7 the cost of forest management, including
8 silviculture, protection and research and
9 development."

10 Do you disagree with that statement, sir,
11 that's on page 2?

12 A. Whereabouts was that on page 2 again?
13 Was it at the bottom?

14 Q. The bottom of page 2:

15 "The fundamental principle is that all
16 three parties must share in the cost of
17 forest management, including
18 silviculture, protection and research and
19 development."

20 And those three parties, I presume, as
21 referred to above, both levels of government and the
22 industry. Do you disagree with that statement?

23 A. Not entirely. The problem is, you
24 see, what the proportion of where you put the cost and
25 I think that's explained further on in the paper.

1 Q. So you are not arguing about the
2 concept of government sharing in the cost, now your
3 evidence is about the proportion. Is that what it is?

4 A. This isn't my evidence, this is your
5 piece of evidence.

6 Q. It has got your name on it. I didn't
7 write it. Excuse me.

8 A. Well, I didn't write it in total
9 either.

10 Q. Right, that's why --

11 A. I contributed to it.

12 Q. Sorry?

13 A. I contributed to it and I'm not too
14 sure if it is a publication. I don't know where it
15 goes to from here. This was just for our particular
16 work group and certainly at the university level it is
17 not a publication.

18 Q. I see. So you don't want to be
19 associated with a publication that says this; is that
20 correct?

21 A. No. I'm saying if I introduced this
22 as a publication, if I went from a promotion tenure or
23 renewal, this would not be considered a publication.

24 Q. --forester is a public body?

25 A. That's true.

1 MR. CASSIDY: Did you wish to take a
2 break now, Madam Chair?

3 MADAM CHAIR: Yes.

4 MR. MARTEL: I want to ask Mr. Benson one
5 question. If you were writing that, would you add a
6 little sector to that, only three or four words, and
7 you would share part of the profit, like the dome that
8 we are faced with in Ontario today?

9 MADAM CHAIR: I think that's kind of a
10 rhetorical question, Mr. Benson.

11 THE WITNESS: Well, it is and I would
12 agree.

13 MADAM CHAIR: Let's take our break. We
14 will be back at three.

15 ---Recess taken at 2:40 p.m.

16 ---On resuming at 3:05 p.m.

17 MADAM CHAIR: Please be seated.

18 Mr. Cassidy.

19 MR. CASSIDY: Madam Chair, just one final
20 series of questions on Exhibit 1650, Mr. Benson, which
21 is the working group paper we were discussing. It may
22 not be necessary for you to have it in front of you.

23 Q. Did you ask to have your name taken
24 off this report?

25 A. No, I didn't and I don't intend to

1 either.

2 Q. Now, I want to go to page 38 of your
3 witness statement. That's Volume I Madam Chair,
4 Exhibit 1604A, page 38, Mr. Benson.

5 That contains figure 2-17 of your witness
6 statement and it states that:

7 "It is the sustainable harvest of the
8 spruce working group of Ontario estimated
9 before and after the application... "

10 I take it, of your sustained yield method; is that
11 right?

12 A. Well, it's not my sustained yield
13 method. It is a common method, it is used by other
14 provinces, B.C. and Alberta and it's used in the
15 States. It is not my particular invention.

16 Q. You will see that the volume is
17 reduced from 9,000 -- excuse me, 90,000 cubic metres
18 to, as I understand it, approximately 4,500 cubic
19 metres at year five and then that gets tracked all the
20 way across, reflecting what is essentially a 50 per
21 cent reduction in volumes; is that right, Mr. Benson?

22 A. Going from the top line with the dark
23 squares to the lower line with the open white squares?

24 Q. Right.

25 A. Yes.

1 Q. It represents a 50 per cent reduction
2 in volumes?

3 A. Yes, approximately.

4 Q. Okay. I am curious, sir, why was the
5 volume reduced by 50 per cent when you only assumed a
6 30 per cent reduction in the land base?

7 A. Okay. The notation for the Figure
8 2-17 is not quite correct. If you refer to page 20,
9 where it refers to figure 2-17, it refers to some of
10 the factors that are considered, the longer rotation,
11 70 per cent of the spruce working group is actually
12 spruce, 30 per cent loss of the land base and
13 sustainable harvest would be less considering those
14 factors.

15 So it's my error in labelling that
16 particular graph.

17 Q. How did you come up with the 50 per
18 cent?

19 A. I couldn't tell you directly now how
20 it would be 50 per cent, but that's the way it would
21 work out. If I considered that 70 per cent of the
22 volume was spruce and that there was a 30 per cent loss
23 of the land base, there are those two factors working
24 together within the model that would come up with those
25 particular figures.

1 Q. How does the 50 per cent get derived
2 from that?

3 A. Well, we are looking at the
4 sustainable level. So it's the sustainable level, the
5 MAI, at whatever rotation or whatever rotation period
6 of MAI would sustain the yield. That particular MAI
7 times the productive land base.

8 In this particular one the land base is
9 reduced by 30 per cent, that was reduced across the
10 board assuming it is reduced in all age classes
11 equally, and the volume or the MA -- the volume would
12 be reduced also by 30 per cent to reflect 70 per cent
13 spruce.

14 Q. But -- sorry.

15 A. Those would two factors combined then
16 would produce that particular figure.

17 Q. Would produce 50 per cent?

18 A. The way it came out, yes. Roughly 50
19 per cent, not quite 50 per cent.

20 MADAM CHAIR: Excuse me. Was the latter
21 point the loss of all working groups except spruce?

22 THE WITNESS: I'm sorry?

23 MADAM CHAIR: Your latter point about
24 using spruce, looking only at spruce with respect to
25 calculating the value, you didn't look at other working

1 groups, so that led to another decrease in total in
2 volume?

3 THE WITNESS: Yes. This is just the one
4 working group and I'm saying within that working group,
5 because the working groups aren't always purely one
6 species, I was reducing the volume just to account for
7 the spruce within the spruce working group.

8 MADAM CHAIR: Okay.

9 THE WITNESS: It is not meant, again, to
10 be an absolute figure, it is just an example of what is
11 the level. There are a number of factors to be
12 considered and a number of questions that have to be
13 answered if we want to narrow down how much can we
14 produce.

15 MR. CASSIDY: Q. This would not include
16 the spruce that's in other working groups, though?

17 A. No, it wouldn't.

18 Q. So the volume may in fact be higher
19 than what is indicated on page -- or this figure?

20 A. That's right. What I had meant for
21 this figure was merely to illustrate that the
22 sustainable level considering other factors -- if you
23 consider other factors is going to be at a different
24 level. If you consider the other factors that can
25 influence it.

1 And you are right, if you wanted to take
2 a look at the total spruce picture, then you would want
3 to consider the other working groups too and what
4 proportion or what amount of spruce would come from
5 those other working groups.

6 Q. Thank you. I want to move to page 66
7 oif your witness statement. On page 66, Exhibit 1604A
8 you state at the top there -- do you have that, Mr.
9 Benson, page 66?

10 A. I don't see exhibit -- okay.

11 Q. Page 66, you got it?

12 A. Yes.

13 Q. You state that:

14 "The major reason the OMNR espouses for
15 using the OWOSFOP method of allowable cut
16 determination is to cut through the
17 overmature timber earlier and faster and
18 potentially produce higher yield from the
19 forest."

20 And then you go on to state:

21 "However, the major flaw in this approach
22 is that a relatively small proportion of
23 the productive forest land is classed as
24 overmature while the majority is
25 immature."

1 I want to refer you to page 41 of the
2 witness statement which in the middle of the
3 paragraph -- sorry, the middle of the page, page 41,
4 Item A:

5 "The present method of determining the
6 allowable cut, the OWOSFOP method to
7 calculate the MAD produces allowable cuts
8 that...for an overmature forest. As
9 Ontario has an over-abundance of
10 overmature forest, the overall effect is
11 a declining allowable cut in the future."

12 Can you tell me, sir, does Ontario have
13 an abundance of overmature or immature forest?

14 A. That's a good question.

15 Q. Thank you.

16 A. Certainly the federal report shows
17 what I have indicated there which is a question mark.

18 Q. Indicated where, on page 41?

19 A. On page 66.

20 Q. Yes.

21 A. And that's a report by Bonnor, G.M.,
22 1982 Canada's forest inventory 1981, whereas if we look
23 at the different management units we find that the
24 OWOSFOP calculations show that there is a preponderance
25 of overmature forest.

1 Now, I think maybe where the difference
2 comes in and I'm not -- but I do not know for sure is
3 the choice of rotation age that perhaps Bonnor in his
4 work is using a longer rotation age which gives less
5 overmature wood than what happens in the case of the
6 management units where they use a younger rotation age.

7 Q. Well, I'm --

8 A. That's the only explanation I can
9 give for the difference between the two.

10 Q. All right. On page 41, you state:
11 "... as Ontario has a preponderance of
12 overmature forest."

13 Is that your view?

14 A. Again, that's a difficult one. It
15 depends what inventory are you going to accept.

16 Q. When you wrote this statement, I
17 assume that you, sir, made a -- or drew a conclusion
18 that Ontario has a preponderance of overmature forest,
19 and yet I think you can understand my difficulty when
20 you compare that to the statement on page 66.

21 All I am asking for is which one is your
22 view?

23 --A. Okay. When you are looking at
24 calculating the OWOSFOP from the management units, it
25 comes out that there is more overmature forest, mainly

1 because the rotation ages of the rotation ages.

2 When you take a look at other reports it
3 is classified as immature. Presumably because they are
4 using a longer rotation age.

5 Q. So --

6 A. My particular opinion would be --
7 well, basically what I said, you've got two different
8 ways that people have classified the forest.

9 Q. Therefore in light of that statement,
10 would you agree that the statement on page 66 is a
11 matter of classification and that, in fact, there are
12 other ways of classifying the forest such that it could
13 be considered to be an overmature forest in Ontario,
14 not immature?

15 A. It really revolves around the
16 rotation age that you use for any particular forest,
17 whether it is going to be overmature or undermature.

18 Q. When the Board is reading that
19 portion on page 66 they should bear in mind what you
20 have just said; correct?

21 A. That's right, yes.

22 MR. MARTEL: Is there no standardization
23 across the province as to what -- the more I hear about
24 this industry in terms of the terms, going right back
25 to when Mr. Armson started to appear before us, it

1 seems to me that part of the problem is nobody seems to
2 be working from the same set of definitions so that we
3 can get a handle.

4 I think we had an example, I forget what
5 it was, this morning and it flashed across my mind and
6 we have another one here. If we are ever going to get
7 where we want to go, we better get together on what the
8 definitions are so we have some sort of agreement what
9 we are talking about.

10 What in Ontario are we talking about?
11 Have we got overmature forests or does it depending on
12 where you start from. There doesn't seem to be
13 anything called consistency when dealing with this
14 topic. I am not talking about the topic of overmature
15 forests, I am talking about the topic of forestry.

16 MR. CASSIDY: You mean --

17 MR. MARTEL: The various definitions and
18 we go right back to when Mr. Armson first appeared
19 before us and he said part of the problem has been, and
20 he repeated it over and over again during his evidence
21 of the different definitions we work from and what
22 causes the confusion that might arise in this industry
23 or be apparent in this industry.

24 I'm not talking about the industry per se
25 as a company, but in dealing with forestry. If there

1 is one thing that's consistent it is the inconsistency.

2 MR. CASSIDY: Well, I take it you are
3 assuming to the field of forestry, Mr. Martel?

4 MR. MARTEL: Yes, I'm talking about the
5 broad --

6 MR. CASSIDY: I am not on the stand, but
7 Mr. Benson you are.

8 THE WITNESS: Well, there certainly are a
9 lot of inconsistencies that should be straighten out.

10 The point about rotations, too, it
11 becomes a little bit more inconsistent if you consider
12 the other uses for the forest. That can affect the
13 rotation age that you are going to use and whether you
14 want to grow overmature forests. It can affect the way
15 that you view that forest. You may not want to use the
16 younger rotation.

17 I agree with you, there is a number of
18 inconsistencies that should be clarified within the
19 forestry profession before others can really understand
20 what's going on.

21 MADAM CHAIR: Excuse me, Mr. Benson. I
22 don't mean to be critical of your opinion, but of
23 course it is not helpful to say to a Board: Well,
24 maybe you have a lot of overmature trees or maybe you
25 don't.

1 I understand why you are saying it with
2 respect to definitions of planning tools, but did we
3 also find in your evidence a conclusion that you don't
4 feel that there is any immediate supply gap with
5 respect to trees of harvestable age in Ontario?

6 THE WITNESS: Yes. I think I was asked
7 that question, too, if I felt that working at the
8 sustainable level whether it could be sustained.

9 MADAM CHAIR: Yes.

10 THE WITNESS: I couldn't find on an
11 Ontario basis, I couldn't find that gap.

12 Now, certainly you could find local gaps
13 here and there. Temagami would be an example. But on
14 an Ontario basis, no, there is not a gap.

15 MADAM CHAIR: Thank you.

16 MR. CASSIDY: Q. Moving on, unless the
17 Board wishes to ask another question on that.

18 Mr. Benson, your counsel asked you a
19 number of questions about clearcut size restrictions in
20 other provinces. She did not indicate or ask you about
21 what province that you did refer to in your evidence
22 and that's the Province of Quebec.

23 Am I correct that the clearcut
24 restriction in Quebec is 250 hectares, and just to
25 assist you I think that can be found on page 112 of

1 your evidence.

2 MS. SWENARCHUK: Mr. Cassidy, I didn't
3 ask Mr. Benson those questions, but in fact in going
4 through the source book with the Board we identified
5 the relevant section of the source book that indicates
6 that.

7 MR. CASSIDY: I am not being critical.
8 I just want it so we don't have to jump around and it's
9 right in the transcript.

10 MS. SWENARCHUK: I think what the
11 relevant section of the source book indicates is 150 to
12 250 hectares, a range.

13 MR. CASSIDY: Q. The maximum size of
14 clearcuts is 250 hectares in Quebec, Mr. Benson; is
15 that correct?

16 A. I believe that's correct. That's
17 correct.

18 Q. You were dealing with distribution of
19 cut and I think you indicated several times that is a
20 real issue for you in terms of distribution of cut as
21 opposed to size of cut. Is that fair to say?

22 A. Certainly I was trying to clarify the
23 size of clearcut that to me the distribution was -- of
24 the clearcut areas and the age class components you are
25 trying to produce in that forest are important.

1 Q. As opposed to any absolute number of
2 size, distribution of the age class. That's
3 significant to you; is that right?

4 A. As opposed to the size? I don't
5 know. Size of the individual cuts would be important
6 and they would be important from the point of view of
7 the biological factors that I go through in Volume I
8 and, secondly, from the economical point of view that I
9 think could be achieved with natural regeneration which
10 I maintain would require the smaller harvest areas in
11 order to get the better natural regeneration.

12 Q. Okay. If we could then move to the
13 Remrod article which you referred the Board to and that
14 is in the source book.

15 MADAM CHAIR: Which volume, Mr. Cassidy?

16 MR. CASSIDY: My breakdown has it in
17 Volume 4 of the source book, but that's broken down for
18 my purposes.

19 MS. SWENARCHUK: Volume II if your source
20 book remained in the condition in which it was filed.

21 MADAM CHAIR: Was it near the end of the
22 source book, Ms. Swenarchuk?

23 MS. SWENARCHUK: I am just being told
24 that this is the one you couldn't find before in your
25 source book.

1 MR. MARTEL: It's lost again.

2 MADAM CHAIR: All right. There is a
3 special yellow sticker. Thank you.

4 MR. CASSIDY: Q. I would like to refer
5 you what is numbered page E126 of that document which
6 is, I believe, the fourth page, Mr. Benson.

7 Do you have that?

8 A. I do.

9 Q. Do you see the statement in the
10 second paragraph of that which states:

11 "Similarly, the size of clearcut areas is
12 unlikely to have any major impact on the
13 results of forest cultivation."

14 The second sentence in.

15 A. Correct.

16 Q. Do you agree that that is applicable
17 in the Canadian context as well?

18 A. I have to read the first paragraph
19 here to see what this is referring to, if you don't
20 mind.

21 Q. Go ahead, if you don't mind, it is
22 relatively short.

23 A. I wouldn't say that's directly
24 applicable to Canada because of the Figure 6 on page
25 E125 where you are looking at clearcut sizes that are

1 appreciably smaller than what ours are.

2 Q. I'm not sure why you assume that that
3 sentence is referring to the graph on page E125 or what
4 the size of the clearcuts are. Can you assist me
5 there?

6 A. Well, perhaps I misunderstood your
7 original question. Can you repeat the question,
8 please.

9 Q. It states:

10 "Similarly, the size of clearcut areas is
11 unlikely to have any major impact on the
12 results of forest cultivation.

13 And maybe to assist you I will move on:

14 "It is far more important to adapt
15 cleaning, soil scarification, draining
16 and selection of species of trees to the
17 varying site conditions inherent in a
18 newly made clearcut area."

19 I suggest the author is saying here the
20 cut size is not as significant as these other factors
21 and I am wondering why you would tie that back to the
22 table at page E125 when the author didn't?

23 A. Because of the average size of those
24 clearcuts that you are talking about. So we are
25 talking about a different scale of operations and we

1 are talking about an average size of clearcut area
2 ranging from 1.8 to 3.6.

3 That's quite different when you are
4 talking about 100 to 1,000 hectares. That's why I mean
5 it's different.

6 Q. So it is your interpretation of this
7 article that it is only in reference to the smaller
8 clearcuts that the author made that statement?

9 A. Presuming that I would make it in
10 reference to the clearcuts in Sweden and the data that
11 was presented shows that the average size is relatively
12 small compared to ours.

13 Q. So you do not think it is a fair
14 interpretation of that statement that the author is
15 focusing on the -- not only clearcuts but cleaning,
16 soil scarification, draining and varying site
17 conditions?

18 A. I'm sorry, I didn't follow how you
19 are...

20 Q. You are saying that the author is not
21 focusing on clearcut size, but is focusing on, because
22 it has been smaller in Sweden, on not clearcut size,
23 but cleaning, soil draining and selection of species of
24 trees to the varying site conditions?

25 A. I think the author is writing from

1 the point of his view of the work in Sweden and the
2 size of clearcuts in Sweden are influencing what he is
3 writing.

4 Q. In that statement he doesn't refer to
5 the size of clearcuts as they now exist or size of
6 clearcuts as referred to on page E125; does he?

7 A. No, he doesn't refer to all of those
8 things.

9 Q. All right. With reference to E123,
10 the very first page, Mr. Benson do you see the last
11 sentence in the last paragraph above the Figure 2? It
12 reads:

13 "Each year a good 200,000 hectares are
14 felled, corresponding to about 1 per cent
15 of the forest land, and each year some
16 600 million new trees are planted."

17 Do you see that sentence?

18 A. I see that.

19 Q. By my mathematics that calculates out
20 to about 3,000 trees per hectare planted. Would you
21 agree that represents rather intensive forestry?

22 A. Yes, it does.

23 Q. Would you agree, therefore, that the
24 Swedish situation relies, in fact, on intensive
25 forestry, intensive regeneration and not extensive?

1 A. At the present time it does. They
2 have switched back and forth between extensive and
3 intensive.

4 Q. And they call it intensive and
5 extensive on varying sites depending upon the judgment
6 of the forester; is that right?

7 A. No, I mean timewise over the years
8 they've changed.

9 Q. Okay.

10 Q. If I could turn to page 20 of your
11 witness statement, that's Exhibit 1604A. You state --
12 do you have that there, Mr. Benson?

13 A. I do.

14 Q. The very last sentence on that page:
15 "Neither the FRI or the operational
16 cruising can be related to the actual
17 scaled volumes." Without an accurate
18 assessment..." At the top of page 21,
19 "...the of scale volumes that may be
20 expected from the operational areas on a
21 management unit..."

22 The very last sentence on page 20 and
23 then continuing up to the top:

24 "Without an accurate assessment of the
25 scale of volumes that may be expected

1 from the operational areas of a
2 management unit...estimates of
3 wood supply maybe made at the operational
4 level of the management planning."

5 Sir, are you aware that companies
6 routinely use adjustment factors in their wood supply
7 planning based on actual scaling results and
8 operational cruises?

9 A. I know of some companies that do
10 that. I don't know what they all do to arrive at their
11 final volume figures. I know the companies do that.

12 My point is, from the provincial point of
13 view that -- from the government point of view that
14 there should be a better link between what's the actual
15 merchantable volume you can produce off an area.

16 Q. That's fine. Now, on page 80 of the
17 witness statement. In the middle of page 80, in the
18 middle of that paragraph you state that:

19 "It is unlikely that the government will
20 be able to provide the amount of funding
21 necessary to intensively manage all the
22 forest land and there are signs that
23 government funding is decreasing."

24 Are you saying that it is the -- it is
25 page 80. Do you have it?

1 A. I do.

2 Q. Are you saying that the Industry, in
3 fact, is taking a position that all of the area of the
4 undertaking should be subject to intensive management?

5 A. No, I'm not saying that.

6 Q. Fine, thank you.

7 A. But it's unclear as to how much they
8 are saying should be intensively managed.

9 Q. That's a site specific judgment;
10 correct?

11 A. But sooner or later, if you want to
12 know what you are going to produce on your forest, you
13 have to get down to how are you going to manage that
14 land on the forest or produce what particular volumes.

15 Q. That type of decision is made in the
16 timber management plan -- or you would like to see it
17 made in the timber management plan; would you not?

18 A. If you are looking at just the timber
19 alone for sustained yield and you are looking at --

20 Q. Or anything else. Sorry.

21 A. Or anything else. I was just
22 referring to timber, but if you are looking at
23 production of any of the resources, yes, you want to
24 have some yield functions that have some meaning.

25 It relates back also to the scaling

1 question. It should be related to the actual volume
2 that you can produce from that particular area.

3 MR. MARTEL: I think I have raised that
4 before, though, that we have established a figure but
5 it seems to be a moving target that we are increasing
6 the amount we want to produce.

7 Until we get to that figure, will we ever
8 answer the question that just been asked, how much are
9 we going to try to treat very extensively?

10 How would we ever know whether that until
11 we know how much -- whether that target continues to
12 fluctuate or are we ever going to reach a point that it
13 says: Ontario is going to produce so many hectares per
14 year for the next 40 years, or is that going to be
15 determined by (a) by market that we will try to
16 increase?

17 I don't think we can ever get an answer
18 unless we know or decide what it is we think we can get
19 off the forests of Ontario.

20 THE WITNESS: I think what you are asking
21 in a way is: How do you want to run your forests. You
22 can set your forests up and say we want our forests to
23 produce "x" amount of wood and then run your forests to
24 produce "x" amount of wood.

25 On the other hand, the way it seems to be

1 now it's not clear as to what they are trying to
2 produce. They are trying to produce a sustainable
3 level that's fluctuating and may increase with
4 intensive management to some undetermined level in the
5 future at some undetermined cost.

6 I think we can get a better handle on it
7 and try to add some direction to it and say, what are
8 we actually trying to produce from our forests. What
9 is the cost going to be if we are going to pay for it
10 or can the forest pay for itself. I think it needs
11 more direction right from the top.

12 MR. CASSIDY: Q. From the top?

13 A. From the top as far as to what is the
14 forests going to be used for, tie it down as to what we
15 are going to use it for at the present time and start
16 in that direction. It seems we do have a production
17 policy, but it's really not linked to the real units.

18 MR. MARTEL: How does government -- how
19 do people expect governments to plan and to allocate
20 funds in their annual budget when it's a year-by-year
21 or a five-year projection?

22 How in God's name are governments
23 supposed to plan what they need in order to meet all of
24 society's needs when we don't have this target that we
25 are looking at, so we can't determine how much we want

1 to take off, whether it be lumber, whether it be moose,
2 whether it be something else, and people are always
3 wanting --

4 I mean, they are always running around to
5 government saying, government has got to hand out more,
6 they are not being fair. And then people say: We have
7 to run government like a business, but you don't run a
8 business that way, where it's a moving target annually
9 for everybody, not just forestry, but for mining and
10 everything else.

11 Until we reach that figure -- and
12 something that has bothered me almost from the
13 beginning of this hearing is, I don't know what meaning
14 the forest production policy has, the new and coming
15 whenever we get it, how that relates to how governments
16 are supposed to put the money in with respect to
17 forestry and then daycare.

18 How do people expect anything from
19 government with that sort of moving target and expect
20 government to be able to account for it and come up
21 with the revenues necessary to do the job?

22 MADAM CHAIR: You don't have to comment
23 on that.

24 MR. MARTEL: You don't have to comment.
25 It is not rhetorical, but it has some meaning because I

1 have listened it for years about how this has got to be
2 done, and if we don't have a figure or a bottom line
3 that everyone always talks about, how does government
4 plan to meet everone's expectations and needs?

5 MR. CASSIDY: I can only speak for
6 myself, Mr. Martel. You are not going to hear any
7 argument from my client on that. We, in fact, led
8 evidence in that regard and we will be dealing with it
9 in argument down the road.

10 MR. MARTEL: But I think that is why it
11 is important, Mr. Cassidy, we eventually get what the
12 forest production policy for Ontario is going to be
13 because my colleague and I are going to be asked to
14 make a decision or some decisions, do we take into
15 consideration the old forest production policy on which
16 everything is based or the new forest production policy
17 which is about to be unveiled some time in the near
18 future? You know, we better know what we are after.

19 MADAM CHAIR: Mr. Freidin, on the point
20 that Mr. Martel is raising, do you have any new new
21 information to brief the Board with respect to when we
22 might receive--

23 MR. FREIDIN: No.

24 MADAM CHAIR: --the new production
25 policy? You will let us know as soon as you do?

1 MR. FREIDIN: Yes.

2 MADAM CHAIR: Thank you.

3 MR. MARTEL: We are still basing
4 everything then on the old forest production policy.

5 MR. CASSIDY: Q. Mr. Martel, if I could
6 move along.

7 MR. MARTEL: Go ahead. It's not my
8 better day.

9 MR. CASSIDY: It's Monday.

10 Q. Going back to your evidence, Mr.
11 Benson, page 117, please. The very first sentence on
12 page 117. The very first sentence states:

13 "Harvesting operation can have
14 detrimental effects on water quality."

15 When you use the words "harvesting
16 operation", Mr. Benson, were you referring to any
17 particular type of harvesting operation; that is,
18 modified, clearcutting, any particular type?

19 A. No.

20 Q. So any type of harvesting operation
21 can have an effect on water quality; is that right?

22 A. That's right. The overall effect can
23 vary according to the type of harvest operation.

24 Q. When you were talking about water
25 quality, were you measuring -- perhaps you can tell me

1 how did you measure water quality?

2 How did you understand that water quality
3 was measured in the context of that sentence?

4 A. In the context of this sentence, I
5 refer to the Nipigon landslide report and in that case
6 there was landslide into the Nipigon River and the Town
7 of Nipigon gets some of their water supply -- or gets
8 their water supply from that river it affected the
9 water quality.

10 I am not exactly sure as to all the
11 features of water quality, but certainly you would have
12 colour and sediment in the water.

13 Q. That's the drinking water?

14 A. Drinking water, right.

15 Q. Okay. Dr. Hutchinson stated at page
16 43,876 of Volume 244 that:

17 "You would agree that clearcutting hasn't
18 reduced water quality below drinking
19 water standards."

20 MADAM CHAIR: What page is that
21 reference, Mr. Cassidy?

22 MR. CASSIDY: That's 43,876.

23 Q. What I would ask is that you be
24 provided with a transcript tonight just to review that
25 page and any other pages you wish and we can talk about

1 it tomorrow morning in light of the evidence you just
2 gave.

3 MS. SWENARCHUK: Perhaps Mr. Cassidy
4 should also identify for Mr. Benson the publication
5 that was the subject of discussion in that so that that
6 sentence is put in its proper context.

7 MR. CASSIDY: That's why I was prepared
8 to give him a transcript, Madam Chair, because it
9 refers to the Hubbard Brooks watershed studies and he
10 can look at that. Your council can get that for you
11 overnight, and if you could also refer to page 43,880.

12 Madam Chair, I am about to embark on a
13 part dealing with some more photographs and it is going
14 to take some time. I am confident I can finish it in
15 the morning and it might not be worthwhile breaking it
16 up at the moment. It is going to take more than ten
17 minutes. As a result, I would suggest that we break
18 now rather than get into that and we would have to shut
19 the projector down in ten minutes.

20 MADAM CHAIR: All right, Mr. Cassidy. We
21 have the scoping session anyway at four o'clock.

22 MR. CASSIDY: That's right.

23 MADAM CHAIR: If everyone is here.

24 Mr. Freidin?

25 MR. FREIDIN: Madam Chair, could I ask

1 the for Board's indulgence. Something has come up and
2 I would ask the Board to consider starting on Wednesday
3 at 9:30. Is that a possibility?

4 MADAM CHAIR: You mean stop now and not
5 have the scoping session?

6 MR. FREIDIN: No, have the scoping
7 session. I am saying this Wednesday, this coming
8 Wednesday if we could start at 9:30.

9 MADAM CHAIR: This Wednesday, two days
10 from now you want to start at 9:30?

11 MR. FREIDIN: Yes. I didn't want to
12 catch you by surprise tomorrow night.

13 MADAM CHAIR: Do any of the parties
14 object?

15 You want to start at 8:30, Ms.
16 Swenarchuk?

17 MS. SWENARCHUK: I have no objection.

18 MR. CASSIDY: We will be starting at 9:00
19 tomorrow.

20 MADAM CHAIR: Nine o'clock tomorrow
21 morning and 9:30 Wednesday.

22 Mr. Cassidy, one question before we
23 finish. Where are you going with these questions about
24 the effect of harvesting operations on water quality?

25 MR. CASSIDY: Well, I have some evidence

1 from Mr. Benson about that. I just want to be fair to
2 him and have him look at the evidence of Mr. Hutchinson
3 because that interested me what I saw the document, the
4 witness statement page 117, and he was referring to
5 water quality.

6 Now, he has talked about in terms of
7 drinking water standards and we had some evidence of
8 that from Dr. Hutchinson. I am just interested in what
9 his views are in that. He may agree with Mr.
10 Hutchinson, he may disagree, I don't know. The Board
11 has heard that before --

12 MADAM CHAIR: The Board has heard much
13 evidence about the effects of harvesting on water
14 quality, and we are just wondering what Mr. Benson can
15 add to that.

16 MR. CASSIDY: I suggest we are going to
17 have to wait and see in the morning, Madam Chair.

18 I am interested in finding out what his
19 views are on Dr. Hutchinson's evidence. If he says he
20 has no view or can't offer a view or whatever, then so
21 be it, but I am interested in exploring that evidence
22 him.

23 MADAM CHAIR: Okay.

24 MR. CASSIDY: Madam Chair, the only other
25 matter is, I will provide Mr. Benson with those

1 transcript references in respect of the nature of the
2 harvesting that occurred in the areas sampled on page
3 124 of the OFIA witness statement so that he has an
4 opportunity to review that.

5 MADAM CHAIR: Let's just keep in mind
6 that Mr. Benson might not be able to go through all
7 this material himself in which case you will have to
8 stand up here and read it all to him.

9 MR. CASSIDY: That's fine.

10 MADAM CHAIR: If you can't review this in
11 the evening, Mr. Benson, that's all right.

12 THE WITNESS: I will do to the best I
13 can. If you put it in order of priority...

14 MR. CASSIDY: Dr. Hutchinson's material
15 you should review and I will call your counsel with the
16 page references for the cross-examination that you can
17 then be provided with in respect of the modified
18 harvesting that might have occurred in the area
19 represented on page 124 of the OFIA Panel 8 witness
20 statement.

21 As I indicated, my recollection is that
22 we are not talking about a significant amount of
23 material to read.

24 MS. SWENARCHUK: You will have to give to
25 to me here because you can't reach me after I leave

1 here.

2 MR. CASSIDY: We will discuss that.

3 MADAM CHAIR: All right. We will
4 reconvene 9:00 tomorrow morning here and 9:30 on
5 Wednesday.

6 Thank you very much.

7 Anyone who is not interested in the
8 scoping session for Forests for Tomorrow's Panel No. 6
9 can leave.

10 MADAM CHAIR: Ms. Swenarchuk?

11 Mr. Lindgren, sorry, I forgot that you
12 would be managing your case for Panel 6, Mr. Maser's
13 evidence.

14 MR. LINDGREN: That's correct.

15 MADAM CHAIR: The Board has a few
16 questions that might give you some sense of what we
17 want to see Mr. Maser clarify and direct his mind to
18 when he appears before us.

19 Our first question has to do with Mr.
20 Maser's -- am I pronouncing Mr. Maser's name correctly?

21 MR. LINDGREN: You are, Madam Chair.

22 MADAM CHAIR: His concept of restoration
23 management and trusteeship and is there room for some
24 amount of intensive plantation management in his view.

25 I'm not sure if Mr. Maser is familiar

1 with how we have been defining intensive plantation
2 management at this hearing, but perhaps you could
3 explain that for him.

4 Relating to that question is our interest
5 in what he refers to as biologically diverse managed
6 forests and the other extreme of biological deserts and
7 we want to know where he would put intensive plantation
8 management in this conception of his.

9 A related question on that issue is found
10 in a statement of Mr. Maser's on page 21 where he says
11 plantations are failing over time in other parts of the
12 world.

13 We notice that Mr. Maser refers to four
14 studies which he believes give him the evidence to
15 arrive at his conclusion and we would appreciate it if
16 Mr. Maser could very briefly - and I will emphasize
17 very briefly - summarize for the Board the main points
18 from these four studies that he feels allows him to
19 make the conclusion that plantations are failing
20 throughout the world.

21 On another issue. Can we assume from Mr.
22 Maser's emphasis on the need for - I believe he calls
23 it - reinvestment of the biological capital in the
24 forest and he uses an example of this type of
25 biological capital the presence of large trees, snags

1 and fallen trees and the old forest.

2 Would he agree for the beed to leave
3 slash on a site after harvesting and would that go any
4 way towards becoming a reinvestment of biological
5 capital.

6 Also, does Mr. Maser realize the
7 distinction we are making between full tree and whole
8 tree?

9 MR. LINDGREN: They are synonymous for
10 him, but...

11 MADAM CHAIR: I notices they were
12 synonymous for him, but does he know for the purposes
13 of this hearing they are not.

14 MR. LINDGREN: That's correct. That
15 matter has been discussed and in fact it was the
16 subject of an interrogatory.

17 MADAM CHAIR: Yes, we saw it. Thank you.

18 I hesitate to raise this question having
19 read Mr. Maser's interrogatories and the groundrules
20 under which he will be appearing before us, but could
21 he spent a little time - and I couldn't find quite the
22 answer to this - obviously it would interest the Board,
23 is Mr. Maser is very familiar with the Pacific
24 Northwest.

25 The Board has some appreciation about

1 what old forests in the northwest of the United States
2 and Canada looks like. We don't think it looks like
3 old growth forest in northern Ontario. We want to get
4 some sense from Mr. Maser of how he would help the
5 Board with respect do to defining what an old forest in
6 northern Ontario would be, and I think in the
7 interrogatories that was brought up by all the parties.
8 Is this a forest that has never been logged, and then I
9 get confused whether he is talking about a natural area
10 or an old growth forest for an area that's never been
11 logged.

12 Can he tell us, is there an age at which
13 a regenerating forest would become an old forest. At
14 what age is a fire originated stand in northern Ontario
15 considered an old forest. I think these are all
16 questions that Mr. Maser was asked with respect to the
17 interrogatories and it would just be very helpful for
18 the Board if he were to tell us early on I think -- if
19 he wants to tell us early on we would like to hear his
20 principles about the old forest. Is he generalizing
21 those to apply to Ontario as well as the Pacific
22 Northwest?

23 MR. LINDGREN: I'm sorry, I think I
24 missed your last point. You had asked is there an age
25 when a regenerating forest is old and then there was...

1 MADAM CHAIR: With respect to fire
2 originated conifer stands.

3 MR. LINDGREN: Right.

4 MADAM CHAIR: At what age do they become
5 an old growth forest, or would a naturally regenerating
6 cut-over be considered an old forest.

7 On another point. Mr. Maser speaks from
8 a world perspective on forests and he mentions that a
9 number of times, that he is interested in a global
10 perspective on forests, and in that respect he defines
11 what he sees to be a myopic drive for short-term
12 profits with respect to economic considerations and the
13 Board would like to hear from Mr. Maser - and, again, I
14 understand that you are not putting him forth as an
15 expert in socio-economic analysis - but with respect to
16 his opinions about economic considerations, does he see
17 that there is room for other than an emphasis on
18 short-term profits.

19 Does he understand or appreciate the
20 effects on local communities, has he seen the impacts
21 in the Pacific Northwest, for example, and does he see
22 any room for those considerations with respect to his
23 concern for old growth forests.

24 And a final issue has to do with Mr.
25 Maser's concept of what would be an ecologically

1 adequate system of natural areas of native forest
2 including old growth. we would like Mr. Maser to give
3 us his opinion as to how you approach the issue of old
4 growth forest in a jurisdiction like Ontario where you
5 don't have a concise overview of the size and location
6 and composition of old growth forest.

7 Furthermore, hypothetically let's assume
8 you are not going to close down the forest industry
9 until you have more information about where the old
10 growth forest is. So, in other words, you proceed with
11 timber management operations and what do you do in the
12 meantime until you have been been to inventory your old
13 growth forest and decide what you are going to do with
14 it.

15 There seems to be some choices. The
16 first choice would be, do you set aside preserves of
17 old growth forest in which you would simply prohibit
18 any logging from taking place or, secondly, do you
19 follow an approach that has been suggested by the OFAH
20 which is setting aside some per cent of each management
21 unit that you operate in as a way of preserving old
22 growth.

23 --We are interested in receiving Mr.
24 Maser's opinions not on what you do with old growth in
25 the future, but what you do if you have a decision to

1 make about an old growth forest and you don't know a
2 whole lot about it.

3 Those are the Board's comments on the
4 scoping session. Although we do have something we want
5 to discuss with the Ministry of Natural Resources and
6 this will take the form of an undertaking being
7 requested of the MNR, but the Board will certainly give
8 you an opportunity to come back to us and tell us how
9 you would go about it.

10 The Board is aware of the terms and
11 conditions that the parties have looked at with respect
12 to getting some information about old growth forest.
13 What would be helpful to the Board at this point is is
14 to have in front much us a very, very brief summary of
15 the evidence that we have heard at the hearing so far
16 and that gives us an idea of what data we have with
17 with respect to old growth forest and that has to do
18 with size, location, species competition.

19 In other words, we are not asking for the
20 production of data that isn't before the hearing now.
21 We are asking for a summary of the evidence that we
22 have heard with respect to defining what the old forest
23 is, the old growth forest and where it is in Ontario.

24 The Board certainly has been following
25 all the bits and pieces of it, particularly with

1 respect to the OWOSFOP calculations, but we want to
2 have in front of us a summary of that.

3 MR. FREIDIN: We will look at that. One
4 of the questions you raised as to how you would define
5 that will be something we have to grapple with well
6 perhaps as well, but thank you.

7 MADAM CHAIR: Thank you, Mr. Freidin, Ms.
8 Blastorah.

9 Is there anything you wanted to ask the
10 parties, Mr. Lindgren.

11 MR. LINDGREN: I actually found the
12 statements of issue to be of considerable assistance
13 this time around, Madam Chair. I think the issues that
14 have been identified -- the way that they have been
15 identified is relatively straightforward and helpful.

16 I do have one question of the other
17 parties and it concerns the timing of Mr. Maser's
18 appearance and the length that we will have to be here
19 in Toronto. I am wondering perhaps if we could start
20 asking the parties as to how long they might be in
21 cross-examination.

22 MR. MARTEL: How long are you going to
23 be?

24 MR. LINDGREN: I anticipate being
25 between a day to a day and a half.

1 MADAM CHAIR: Mr. Hanna?

2 MR. HANNA: Madam Chair, I expect I will
3 be no longer than half a day.

4 MADAM CHAIR: A half a day?

5 MR. HANNA: Yes.

6 MADAM CHAIR: Thank you.

7 Ms. Seaborn?

8 MS. SEABORN: I think two hours should be
9 sufficient, Madam Chair.

10 MADAM CHAIR: Mr. Cassidy?

11 MR. CASSIDY: Madam Chair, it is
12 difficult to predict at this point. I would say a day
13 subject to the problem that we have with the
14 interrogatory answers, and we have a problem with them,
15 such that if the answers to the interrogatories stay in
16 the shape they are in now we will be longer than a day
17 because we intend to cross-examine on matters in the
18 interrogatories which, in our view, are not
19 satisfactorily answered.

20 MADAM CHAIR: Have you discussed this
21 matter with Mr. Lindgren?

22 MR. CASSIDY: We have not yet discussed
23 the matter, Madam Chair. I am prepared to do so.

24 I am prepared to serve supplementary
25 interrogatories to get further and better answers, but

1 if we get answers that come back to "see premise three
2 to these interrogatories" and anything like that, then
3 we would have not got any further ahead and we will
4 pursue that in cross-examination.

5 MADAM CHAIR: Let's find out from Ms.
6 Blastorah.

7 MS. BLASTORAH: I expect we will be
8 probably closer to a day than a day and a half, if
9 that. Again, it is difficult to project. We raised a
10 number of points for futher oral explanation in our
11 issues and it will depend on what the respone is to
12 those issues in particular, but a number of our
13 concerns, as the Board may recognize in our statement
14 of issues, were similar to those of the Board.

15 MADAM CHAIR: Mr. Lindgren, how many days
16 have you scheduled for Mr. Maser?

17 MR. LINDGREN: Well, Mr. Maser will
18 commence his testimony on Monday, January the 28th and
19 we will be sitting from Monday to Thursday of that
20 week.

21 MADAM CHAIR: So that's four days. And
22 he will be back on Monday?

23 MR. LINDGREN: He will be back Monday and
24 there is a possibility that he can stay on Tuesday if
25 it's necessary. I don't think it is necessary now to

1 sit on the Friday as I had suggested in my earlier
2 letter.

3 I do have one additional comment about
4 the additional issues that the Ministry would like some
5 further oral explanation. To the extent Mr. Maser can,
6 he will address those issues, but I would caution the
7 Ministry that some of those additional issues; namely,
8 landscape management, landscape ecology are the subject
9 of an entire panel; namely, our wildlife panel. They
10 will be dealing with landscape planning and landscape
11 management.

12 So there is some overlap between that
13 panel and potentially some parts of Mr. Maser's
14 testimony and I only throw it out at this time to
15 advise my friend that that in fact is the case.

16 MADAM CHAIR: I certainly suggest that
17 the parties work out with Mr. Lindgren all the
18 scheduling problems because the Board is unlikely to be
19 persuaded to recall a witness from -- where is Mr.
20 Maser from?

21 MR. LINDGREN: Nevada.

22 MADAM CHAIR: That is highly unlikely.
23 So I suggest we get through Mr. Maser's evidence while
24 he is here. When he is finished, he is finished; we
25 won't be calling him back, I expect.

1 MR. LINDGREN: Thank you, Madam Chair.

2 MADAM CHAIR: Are there any other
3 questions from the parties to Mr. Lindgren?

4 MR. CASSIDY: The only other comment I
5 can make on this matter, Madam Chair, is that I am
6 going to have a discussion with Mr. Lindgren pursuant
7 to my comments about the state of the interrogatory
8 answers, and I don't want to prejudge that conversation
9 or its outcome, but if it is not satisfactory, we will
10 be back before the Board prior to his giving evidence
11 if we feel it necessary to ask the Board to deal with
12 the matter. We are hopeful that that's not going to be
13 the case.

14 MADAM CHAIR: Thank you, Mr. Cassidy.

15 Is there any other business we should
16 discuss now?

17 (no response)

18 All right. Thank you very much. We will
19 see you a nine o'clock tomorrow morning.

20

21 ---Whereupon the hearing was adjourned at 4:10 p.m., to
22 be reconvened Tuesday, January 15th, 1991 commencing
at 9:00 a.m.

23

24

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